

CENTRAL AMERICAN POLICY

HEARING
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
NINETY-EIGHTH CONGRESS
FIRST SESSION
ON
PROGRESS ON CERTIFICATION IN EL SALVADOR

AUGUST 4, 1983

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CENTRAL AMERICAN POLICY

THURSDAY, AUGUST 4, 1983

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 2:08 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Charles H. Percy (chairman of the committee) presiding.

Present: Senators Percy, Helms, Lugar, Kassebaum, Boschwitz, Pell, Biden, Glenn, Sarbanes, Tsongas, Cranston, and Dodd.

The CHAIRMAN. The committee meets this afternoon to hear testimony from the Secretary of State concerning U.S. policy in Central America.

Secretary Shultz, it is a pleasure once again to welcome you to this committee. I also welcome Admiral Bigley, Chief of the J-5, Plans and Policy Section of the Joint Chiefs of Staff, and Mr. Sanchez, Deputy Assistant Secretary of Defense for International Security Affairs, Inter-American Region.

I understand that you gentlemen are accompanying the Secretary and that Admiral Bigley is willing to stay after the hearing to answer additional questions from interested members. That could be appropriately done in the room immediately behind the hearing room. We will do so in executive session there.

Secretary Shultz, this hearing was called because of the grave concern expressed to me by a number of our members that Central America policies do not display conscientious and well-thought-out plans for accomplishing United States goals in Latin America.

Many of us in Congress have commented on our disappointment and dismay that the recently announced naval maneuvers and large-scale military plans for Honduras did not get a prior consultation with the Congress. Such failure to consult and discuss contributes to distrust and confrontation between the branches and makes bipartisan foreign policy far more difficult, and certainly, in every way we possibly can within the realm of human practicality we are attempting to achieve a bipartisan foreign policy.

We are not the only ones asking for better information and a more coherent presentation of our Central America policy. The American public also needs this, as do our allies and friends and neighbors. Opinion polls continue to show that the public is confused and apprehensive about our policy in Central America.

I support the President's policy as described in his April 27 speech before the joint session of Congress. This country has a profound interest in what is happening in Central America.

Our record of dealing with regional problems has not been always bright. We simply must do better, and I think we all concur with that. We must demonstrate to the American public and to our Latin neighbors that U.S. leadership in this region is constructive and beneficial to all of us.

I hope we can use this opportunity in an open and public forum to lay to rest many of the apprehensions that have been expressed about policy in the region. It is important to have an open session on this particular subject. We have learned through our history that no foreign policy of any administration can really be fully implemented unless it is backed and supported by the Congress and unless it is backed ultimately and supported by the American people.

The understanding and the knowledge that you can give to this committee and to the general public is essential at this particular point, to clarify many of the points that cause apprehension, by the committee as well as by the American public.

Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

I join you in welcoming Secretary Shultz and his colleagues to discuss administration policy in Central America, including the judgments contained in the most recent certification of El Salvador.

I know I am deeply concerned that the military exercises recently announced by the President will lead to the Americanization of the conflict in Central America. The American people and the Congress are really totally in the dark about the purpose, scope and danger to American forces of this significant projection of American military force.

Statements by the President at his July 26 press conference serve to confuse more than to clarify the issue of what we are doing in Central America. On the one hand, he appears to be playing hard ball with Nicaragua and Cuba by brandishing guns before their noses. On the other hand, he attempted to soft-soap the American people by portraying these exercises as routine.

I believe, Mr. Secretary, that the administration cannot have it both ways. You cannot scare the Cubans and Nicaraguans and still expect to reassure the American people that the United States will not be drawn into another bloody conflict.

I was particularly disturbed by a report in the Washington Post of July 29 that, according to United States and Honduran officials, "a major aim of the rapidly escalating U.S. military presence in and around Honduras is to provide a protective shield for their country as U.S.-backed rebel forces operating along the border with neighboring Nicaragua expand their efforts to overthrow the Sandinista government there."

The Post further reports that the first operations of the land maneuvers "according to U.S. military officials, will take place in the province of Choluteca which borders right on Nicaragua."

These reports, if true, raise serious questions about the purpose of the maneuvers, the extent to which American forces should be put at risk, and whether the provisions of the War Powers Resolution requiring congressional approval for deployment of U.S. forces beyond 60 days are applicable.

The size of the maneuvers and the rhetoric surrounding them also raise questions about their effect on the Contadora peace process. If the President is serious about his support for the Contadora group's efforts, it is my view that he should scale back the size of the exercises to conform more nearly with those that we have held in the past. This should be a prelude to a request that the Contadora group convene a formal conference involving both Cuba and Nicaragua to test the sincerity of these countries to negotiate on regional issues.

And here I would like to compliment the administration on the work that Ambassador Stone is doing with the Contadora countries.

We are on a slippery slope in Central America and the American people want to know where we are heading. I hope that this hearing will answer these questions.

Secretary Shultz, we would be very happy to hear from you now.

STATEMENT OF HON. GEORGE P. SHULTZ, SECRETARY OF STATE, ACCOMPANIED BY NESTOR SANCHEZ, DEPUTY ASSISTANT SECRETARY OF DEFENSE, INTER-AMERICAN AFFAIRS, DEPARTMENT OF DEFENSE; VICE ADM. T. J. BIGLEY, U.S. NAVY, DIRECTOR OF J-5, PLANS AND POLICY, DEPARTMENT OF DEFENSE; AMBASSADOR ANTHONY MOTLEY; AND ADM. JONATHAN HOWE

Secretary SHULTZ. I feel like I have been set up here by these opening comments. To me, the policy that we have is clear and consistent, and it is a multifaceted policy. It is a sophisticated policy, so you have an interplay among the parts of it. That means you have to emphasize one thing at one time and another thing at another, and that is the way a sophisticated policy is supposed to work.

So, in that spirit, Mr. Chairman and distinguished members of this committee, I welcome the opportunity to discuss with you the developments in Central America.

Our policy toward Central America today is just as the President set it forth to the Nation before the joint session of Congress on April 27, the speech to which you referred, Mr. Chairman, and with which you said you agreed. That night he identified our objectives as being to prevent a wider crisis and to bring about a lasting peace. And to achieve those ends, the President defined four activities to which we have committed ourselves:

Support for democracy, reform, and human rights; support for economic development; support for dialog and negotiations among the countries of the region and within each country; and support for the security of the region's threatened nations as a shield for democratization, development, and diplomacy.

Every step we have taken since then is consistent with this comprehensive strategy. Let me sum up each element as it stands today and as it relates to the others and to the whole.

Before I do so, however, let me say that a key aspect of the President's statement of April 27 was his appeal for a bipartisan approach to Central America's increasing importance. With the counsel and support of many Members of the Congress, the President has now named a Bipartisan National Commission headed by Henry Kissinger.

Americans have begun to realize that we must pay more attention to our own neighborhood.

I might say that some of my distinguished predecessors, some months ago, some looking down their nose at me a little bit, had said that, "when I was in office I did not spend more than 20 seconds on Central America." Mr. Chairman, that is the problem. We have not paid enough attention to our own neighborhood, and we must do so.

Now, an effort to look at the future, and to do so in a bipartisan spirit, has long been needed. I hope everyone will provide the Commission as much assistance as possible as it begins its work.

Today, however, I want to discuss the current thrust of our four-part policy.

First—and it belongs first—support for democracy, reform and human rights.

What we seek is a Central America more like Costa Rica than Cuba. We seek genuine democracy—not totalitarian charades but respect for human freedom and the rule of law—not repression but governments committed to the welfare of their own people.

Last year we observed with admiration Costa Rica's typically enthusiastic and meticulous national election. Today we are working with the Costa Rican Government, its prestigious Supreme Electoral Tribunal, and the new regional Center for Electoral Assistance to help other countries improve their electoral systems.

In 1981-82, we supported the transition to democracy in Honduras. Today defense of the constitutional democratic order in Honduras is a key objective.

In El Salvador, the Constituent Assembly elections a year ago last March were a stunning success, demonstrating that democracy can advance even in the face of guerrilla violence.

To help with the next Salvadoran elections, two prominent elections experts traveled to El Salvador in May accompanied by officers from the State Department and AID. We have now developed a project to support the coming elections. Our goal is to help the Salvadoran people build on the success of March 1982, not just the next time, but many times in the future.

We are also helping to rebuild El Salvador's tragically inadequate criminal justice system. I mince no words about that. The Attorney General visited there in April to underline the importance we attach to legal reform in the development of a working democracy.

Legal experts from a variety of U.S. agencies have followed up, and have visited Honduras and Costa Rica as well as El Salvador. In addition, at my invitation Judge Harold G. Tyler is conducting a review of all materials available to us concerning the 1980 murder of four American churchwomen in El Salvador, and I will recommend further actions we might take to advance the prosecution of those responsible for this crime:

Democracy has not been the historical norm in most of Central America, and its construction will not be easy. But the amnesty in El Salvador, the scheduling of elections for a Constituent Assembly in Guatemala, the vibrancy of democracy in Costa Rica and Honduras, all are indications of the progress Central America is making.

What is happening in Central America will be further advanced by the President's Democracy Initiative. We have begun consultations—bipartisan, both at home and abroad—to build support for improved cooperation among political parties and other groups committed to democracy.

Second, economic development.

Between 1960 and 1979, the nations of Central America had high per capita growth rates. But rising expectations clashed with outmoded and unresponsive political institutions; then economic slowdown brought additional conflict and instability. In recent years, falling prices of export commodities, rising import prices, the rule or ruin strategy of the guerrillas in El Salvador, and the growing uncertainty caused by Nicaragua's policies have created an acute economic crisis, increasing the region's vulnerability to Communist strategies.

The United States has responded to these underlying economic problems with both generosity and imagination. Much of the \$610 million in economic assistance budgeted for Central America this fiscal year is concentrated on stabilization efforts—to provide hard currency for essential imports to maintain production and employment. With the rest, the Agency for International Development is supporting about 120 individual development projects.

To take just one critical area—the agrarian reform in El Salvador—our assistance has helped that program to benefit more than 500,000 persons, or roughly 1 Salvadoran in every 10. Other AID projects are developing Costa Rica's northern zone, upgrading Honduras' forestry and livestock industries, and helping Guatemala's highland Indians. Regionwide, U.S. economic assistance is three times greater than our military aid.

Finally, we have worked hard with other nations and with you in the Congress to develop a new approach to assisting economic development—the Caribbean Basin Initiative [CBI]. The CBI provides 12 years of free trade guarantees and incentives for investment in Central America and the Caribbean. It will be a powerful, long-term instrument for development and the creation of new jobs.

The Congress passed the bill just a few days ago. The President will sign it shortly. The CBI is a good example of bipartisan cooperation in the national interest. I am confident its contribution will prove enduring.

Third, dialog and negotiations.

Our diplomacy is designed to help develop political solutions to Central America's national and regional problems. In Nicaragua, the new Sandinista regime did not respond to U.S. efforts at "constructive engagement." We then sought to resolve our differences through dialog. And when bilateral approaches in 1981 and 1982 proved fruitless, we participated in the multilateral peace process launched last October in San Jose. From its beginning this year, we have supported the efforts of Colombia, Mexico, Panama, and Venezuela—the Contadora Group. That support continues today.

In El Salvador, we have consistently and systematically tried to facilitate reconciliation with those among the guerrillas and their associates who might prove willing to test their appeal in honest elections. We are now actively supporting the efforts of El Salvador's

Peace Commission to open a dialog with the Democratic Revolutionary Front—the political arm of the guerrillas—to assure the safe participation of all parties in the democratic process.

Since his appointment by the President last April, your former colleague—now mine—Dick Stone has worked hard to encourage dialog within El Salvador and in the region as a whole. He has met repeatedly with leaders of all the countries involved in the Contadora process, including the Nicaraguans.

Last weekend, with the help of President Betancur of Colombia, Ambassador Stone had a first contact with a political representative of the Salvadoran guerrillas. We hope additional contacts will take place, and that they will facilitate a direct and detailed dialog between the guerrillas and the Salvadoran Peace Commission.

Let me also note that there are important areas of convergence between the July 17 Cancun declaration of the Contadora presidents and the principles subscribed to by the United States last fall in the San Jose Final Act. The regional dialog, though still very difficult, is gradually clarifying the essential conditions for democracy and peace.

And fourth, military assistance and cooperation.

We seek a security shield, not as any kind of end in itself, but to provide the necessary protection, the necessary protection for the political, economic, and diplomatic goals I have just described.

The military components of the President's policy have been carefully calculated to do just that. Two kinds of activities are involved: activities to help others defend themselves, and activities to underline our own deterrent capability.

Military assistance is based on demonstrated needs in each country as measured against the threat to the country's security. The administration's requests for fiscal year 1984 are as follows: for Belize, \$500,000 in grant aid and \$100,000 in training; for Costa Rica, \$2 million grant aid and \$100,000 in training; for El Salvador, \$55 million in grants, \$1.3 million in training, and \$30 million sales credits; for Guatemala, no grant aid, but \$250,000 in training and \$10 million in credit; and for Honduras, \$40 million grant aid and \$1 million in training.

Our readiness and deterrent capacity will be enhanced by the joint and combined exercises to take place with Honduran forces under the designation of "Big Pine II" in conjunction with fleet units.

These exercises will serve two related objectives:

First, to improve the training and readiness of our own forces and those of Honduras;

And second, to provide a credible assurance to all parties that the United States has the capability to muster a protective shield in the face of any challenge to the inter-American system and our international legal obligations.

These are the elements of the policy. All four are essential to our strategy. And precisely because of the interplay among them, they give us both the strength and the flexibility to achieve results.

Our support for democracy is slowly having an impact. A basis is being laid for renewed and more equitable economic growth once the shooting stops. And a critical interplay is underway between the military and diplomatic aspects of our policy.

Mr. Chairman, nations as well as men and women need incentives to change their behavior. At least until recently, there has been no incentive for the Sandinistas, no incentive for the Salvadoran guerrillas, no incentive for Fidel Castro, and no incentive for the Soviets to believe that anything credible, anything difficult stood in the way of imposition of Communist rule by armed forces in El Salvador and in the rest of Central America.

For what reason, then, should the Salvadoran far left be interested in participation in the political process? Why should the Sandinistas under such circumstances refrain from their revolution without frontiers? Why should Cuba act any differently in Central America than in Africa?

But something has now begun to happen. The evidence is there—in the interest in dialog by the Salvadoran guerrillas, even in the words of Ortega and Castro. Messages have been sent. By the solidarity among the Central American democracies, by the Contadora countries, by private remonstrances from Nicaragua's international supporters, by a popular insurgency inside Nicaragua, by the recent advances of the Salvadoran Armed Forces, and by the United States of America.

The substance of these messages is this. A victory by the far left and its foreign supporters through armed force is not in the cards. The people of Central America are intent on resisting that force. They are increasingly capable of doing so—because of their own efforts and because the United States is helping them. The United States and Honduras, in our current military exercises, are demonstrating what cooperative training and deterrence are all about.

Our adversaries' options—which have so far stressed force—must be narrowed toward negotiation and dialog. And I believe it is the responsibility of the administration and the Congress to make certain that nothing is done to weaken the tools that can bring this about.

Our strategy is well constructed for the problems we face. It is sophisticated, realistic, and flexible. It is showing results. It deserves your support and that of the American people.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Secretary Shultz. It was a fine statement and an excellent point for us to begin the discussion.

We will, without objection, limit our questioning to 10 minutes.

First I would like to commend you on your request to Judge Tyler and his acceptance to review all the material available concerning the 1980 murder of four American churchwomen in El Salvador. No issue has more emotionally impacted the people of the country than that issue, which has gone unresolved and seems proof positive there just simply isn't a judicial process working in El Salvador, and that is one of the institutions we have urged friends from El Salvador to strengthen and improve. But this is the symbol as to whether the system can work.

You have also mentioned, from the standpoint of military assistance, \$55 million in grants, \$1.3 million in training, and \$30 million in sales credits for El Salvador. Could you clarify for us the question of the training of forces?

The evidence that we have received seems to indicate strongly that those forces that have been trained by American forces in El Salvador have vastly improved in their effectiveness, not only as military personnel but also their consciousness of their responsibility to their own people, to observe every dignity, every human right.

There has been discussion of increasing the number of American advisers in El Salvador. Has any decision been made by the administration on this and will you be coming to Congress for any change in the present formulation, 55 advisers there and the other training being done outside the country?

Secretary SHULTZ. There has been discussion of the number of trainers, as you know, and the 55 limit, which was something brought forward originally by the administration—I think Deputy Secretary Stoessel originated that statement—has been regarded as a sort of informal limit. The provision of the Honduran training facilities is designed to provide the training and stay within that limit.

There are proposals around to increase the number, but nothing has worked its way through the interagency process, nor is there any proposal before the President. But it certainly is true that there are many, particularly, I think it is fair to say, in the Pentagon, which feels that the number should properly be increased somewhat.

The CHAIRMAN. You indicate that nations as well as men need incentives to change their behavior.

Secretary SHULTZ. I saw that, Mr. Chairman, and I quickly changed that to men and women.

The CHAIRMAN. Thank you. After the events of the last 24 hours, it is a good correction.

At least, until recently, there has been no incentive, you say, for the Sandinistas, no incentive for the Salvadoran guerrillas, no incentive for Fidel Castro, no incentive for the Soviets, to believe that anything credible, anything difficult stood in the way of imposition of Communist rule by armed forces in El Salvador and in the rest of Central America.

I concur with that statement. But our dilemma is this: How do we do that? How do we convince the Communists that we are prepared to make things difficult for them, without then raising undue concerns, in this country that we are going to become directly involved in what may be a combat situation.

Secretary SHULTZ. I think the basic thrust is to help people who want to, and who are capable of doing so, to defend themselves and to provide them with the resources and the training they need to do so. And that has been the basic thrust of our policy and remains so today. And we have to keep pointing that out and also observe its effectiveness—and I think it is becoming more effective.

Now, our own deterrent capability, I think, is worth demonstrating from time to time so people can see it and have no question about a strong, clear, and definite deterrent. It is probably the best assurance against the use of force.

The CHAIRMAN. I would like to ask you a question that some of us put directly to the President. It is well known that there was not a single Member of the Senate or, I think, the House that was consulted on the stepped-up show of military force in Central America. We have had a remarkable relationship with consultation between your-

self, the Department of State, and this committee. It has been close, it has been thorough, and you have frequently volunteered, and we have not had to ask, for you to come up and brief us and tell us what is going to happen.

What happened in this particular case, given the commitment that you had to consult? How can it be explained that there was a failure in this case to recognize the sensitivity among our neighbors in Central America, Latin America, as well as the sensitivity of the American public to this kind of military maneuver at this particular time, without anyone in Congress being consulted and advised prior to the public knowledge of it?

Secretary SHULTZ. Somehow this process slipped, and I think the point is that we certainly intend and had, to the extent that they were needed, rectified or put into place procedures to see to it that consultation continues, not only on this but on other matters that may arise.

Just what happened is not clear to me, and I think it is some combination of things being in the process of formulation and leaking out, people not feeling they want to consult about something until they have really got it clear in their minds precisely what it is, and so forth.

We do have it to the point nowadays where, if you look out the window and scratch your head, there is a leak about what you are scratching your head about, and then you have to explain why you did not consult about that. I do not mean to carry it that far, but there is a process of speculation that goes beyond all bounds.

Nevertheless, with all due respect to those problems, I am sure that a lot better job can be done, and to the extent I am able to do so I intend to participate fully in that process of consultation. I did have an opportunity to meet with the speaker, the majority leader, the minority leader of the House, together with the majority leader and the minority leader of the Senate yesterday morning, and I have written to the leadership of both Houses and proposed the setting up for a regular biweekly briefing led by Ken Dam, and that seems to be agreeable to both sides. Other people will accompany him and we will try to institutionalize that a little bit, in addition to the kind of consultation you mentioned that I have tried to do regularly with this committee and your counterpart in the House of Representatives.

The CHAIRMAN. I think those steps will be extremely helpful. We have used that approach at times in the past. It has worked. It has kept us much better advised, and we can go back and forth on our exchanges.

I wonder, though, if the State Department in this case was fully advised. Was the Department of State fully aware of everything that was going on, that had impact on our foreign policy by the Defense Department?

Secretary SHULTZ. Well, the subject of the maneuvers. The various options involved were thoroughly discussed and presented at an NSC meeting at which I was present, as was Deputy Secretary Dam. I believe you were also there, Tony. And this decision was made by the President, and beyond that I do not feel it appropriate to discuss our internal procedures.

The CHAIRMAN. There were some signs that even the Department of Defense, though, there was some confusion. Statements were made that were later contradicted. They did not seem prepared to cope with the avalanche of requests that came in.

Maybe you could clarify a little bit more. Where did the original instructions for the exercises originate? Was that the President?

Secretary SHULTZ. The President gave the instructions to proceed, certainly. But I think it is fair to say—and I do not want to put words into your mouth, Admiral—but in listening to the plans as they have evolved, that is not necessarily so that every last whip-stitch of what has to be done has been set out. It is an evolving thing as any set of plans are.

So that when you start you do not have an absolutely clear idea of precisely what ship is going to go where and exactly whether you are going to do this, that and the other thing. It clarifies, it changes, and so on.

So that there is a certain evolution to all of this, and that is natural. That is always the case.

Am I correct on that?

Admiral BIGLEY. That is correct, sir.

The CHAIRMAN. My last question pertains to the fact that when simultaneously we seem to be getting signals from the Salvadoran guerrillas, from the Sandinistas, Castro, the Contadora group, endorsing the idea of a peaceful dialog, and we were reaffirming our support for the Contadora process, that we somehow got into the position, or at least the public perception, we were engaging in gunboat diplomacy.

Do you feel that what we did had anything to do with the statements made by our adversaries in this situation that they were willing to enter into dialog and were even willing to cut off the flow of weapons into the area if it would be a mutual process?

Secretary SHULTZ. I think the emerging fact of the determination by the countries involved there to defend themselves and of the willingness and the ability of the United States to sustain its support and of the determination expressed by the President to give that support has had a major impact.

That is just my opinion. I cannot say for sure. And I think it is sort of a classic case of where strength on the one hand, incentive in the form of potential economic benefits that can be gained by everybody through stability and peace, and a willingness to negotiate interplay together. And if you suddenly withdraw one piece of that interplay you are liable to bring the whole thing down.

So I think the answer to your question is likely "yes," although I cannot tell you what is in the minds of various people as they have come forward with statements different from the statement they made on earlier occasions.

The CHAIRMAN. Thank you very much, Mr. Secretary.

Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

I join with our chairman in expressing my own thought, too, that the Government of El Salvador should appoint a special prosecutor in hopes that he will produce evidence that can be used by the courts. In my State particularly, there is a very real concern about the still unresolved—apparently solved but unpunished murders of the four churchwomen.

I would hope that you would continue to press hard on that. The human rights people were going to be here this afternoon to comment on this issue, but they could not be accommodated when the scope of this hearing was expanded. I want to emphasize, however, that the question of these murders is a matter of very real concern to us.

Secretary SHULTZ. I share your concern, Senator, I want to assure you.

Senator PELL. I am glad, and I hope that concern will be expressed in actions and in a sense of urgency upon everyone that is within the reach of your considerable influence.

The Washington Post on July 29 published an article citing American and Honduran officials—this is their article. It said:

A major aim of the rapidly escalating American military presence in and around Honduras is to provide a protective shield for this country as American-backed rebel forces operating along the border with neighboring Nicaragua expand their efforts to overthrow the Sandinista government there.

Is there in your view any truth to this report?

Secretary SHULTZ. It is impossible for me to comment on every newspaper article that comes along. I almost despair of keeping up with the speculation that is involved.

From our standpoint, we are not seeking to overthrow the Sandinista government. At the same time, I do not think there is anything wrong with us putting forward our ideas of how a country ought to be governed and calling the attention of everybody to the fact that the pledges made by the Sandinistas to the OAS [Organization of American States] at the time their revolution was getting rolling are being violated and disregarded. It puts them on the spot internationally, and I think properly so. No apologies for that whatsoever.

Senator PELL. Is it not a fact that the rebels, the contras, many of the contras, have as their objective the overthrow of the government?

Secretary SHULTZ. It certainly is.

Senator PELL. Yet are they not being supported almost entirely by our weapons and by our power?

Secretary SHULTZ. I am not going to comment on what is euphemistically called covert action still.

Senator PELL. But would it not be correct that the military operations, which are overt, the maneuvers, will take place in Choluteca, bordering on Nicaragua? It seems to me quite close to a source of possible combat.

Secretary SHULTZ. All of the exercises are basically training exercises. There is nothing in the plan that represents an operational program of any kind. At the same time, it must be remembered that if you are going to train then you ought to train on the kind of terrain and under the conditions in which the people who are being trained might operate. So that no doubt has something to say about where exercises take place.

Now, what is being trained for and exercised for is interdiction of people who are trying to slip by unnoticed. When you announce that you are going to have a training exercise in terrain of that kind, I think the chances are the people who are going to try to slip by will stay away from you.

But at any rate, if you are going to have training you have to have some component of realism in it.

Now, as we get over into these military topics, Admiral, you contradict me, keep the record straight so I do not misinform anybody, OK? Did you hear what I said?

Admiral BIGLEY. Yes, sir.

Secretary SHULTZ. Do you agree with it?

Admiral BIGLEY. Yes, sir. [Laughter.]

Secretary SHULTZ. I have another admiral down here that I talk to more.

Senator PELL. Slippage can be a two-way affair. What about those that we are propping up? Will they be able to slip through or do you feel that these maneuvers will interdict slippage in both directions?

Secretary SHULTZ. The maneuvers are designed as such and that is the way they will be carried out. There is no intent to engage anybody actively. In fact, quite to the contrary, if a hostile situation developed for some reason or another, our forces will withdraw. They will defend themselves, but they will withdraw.

Senator PELL. That is, I think, very good news and new news.

Secretary SHULTZ. I think that is right in the plan. The Pentagon has briefed on that and that has been their policy. Of course, the briefings are extensive and not everything comes forward in every detail all the time, but that has been the program all along.

Admiral BIGLEY. It has been.

Senator PELL. In other words, they could defend themselves but would withdraw?

Admiral BIGLEY. That is correct. Those are standard peacetime rules of engagement, Senator Pell.

Senator PELL. If the maneuvers continue, in what is essentially certainly very close to a hostile situation, for more than 60 days, in your view would that require congressional authorization under the War Powers Resolution despite the Supreme Court decision?

Secretary SHULTZ. There is no intent, there is no thought of introducing our forces into a hostile situation. So it is not—and I think, if I am not mistaken, the War Powers Resolution explicitly recognizes that there can be such a thing as military maneuvers and exercises, and those are not activities that need that kind of notification.

If we deem it appropriate and it falls under the definitions of the War Powers Resolution, you can be sure that notification as required will be undertaken.

Senator PELL. Thank you.

To broaden the question, under what circumstances would the United States reduce or withdraw entirely its military advisers and reduce the military sales in the region; as called for by the Contadora nations' leaders and by President Reagan in his April 27 speech to us.

Secretary SHULTZ. I think we would look for in the negotiation that Senator Stone is working with—I guess here I call him Senator Stone. In the State Department I call him Ambassador Stone; but at any rate, Dick Stone is working with—to create a package of understanding among the people involved that go to this point of the flow of armaments and the objectives involved and are verifiable.

So that it is not just somebody's word, but there is some way of keeping track of what is going on and seeing to it that what is undertaken actually takes place. And that is an objective that we have.

Senator PELL. Is it correct that in the last 6 months the flow of supplies and weapons to the guerrillas in El Salvador has declined?

Secretary SHULTZ. You mean in El Salvador?

Senator PELL. In El Salvador, yes.

Secretary SHULTZ. The information that I have suggests it has done two things: It has changed its composition, and there is a kind of ebb and flow to it. But certainly the flow continues. It has changed in its composition away from weapons as such and toward supplies for those weapons and supplies that go with any military-type operation. But it does continue.

If I could just interject one more thing, I do think that one of the reasons why the Salvadoran Armed Forces seem to be doing so much better, one of the reasons, is that the present Nicaraguan Government is somewhat distracted and is having some difficulty in keeping up that flow. So it is down a little bit as a result of those activities.

I would say also that the amount of oomph in the Salvadoran Armed Forces seem to have improved considerably.

Senator PELL. What is your reaction to the Castro statement on July 26 that Cuba is willing to support the Contadora proposals and search for some mutual accommodation, in other words withdraw his people in Nicaragua if we withdraw ours? Would we do that?

Secretary SHULTZ. I think it is good to hear him say that. Our effort is to support these ideas, that basically go back in many ways to the San Jose principles, and to try to help in what ways we can the orchestration of the Contadora process or other processes that will bring about a regional kind of solution. And the more people who get onboard that, in reality, the better.

I think it is quite noteworthy that the rhetoric has changed in the last month or so, not only of Castro recently and the Nicaraguans a little more recently, but the concept of the Contadora four also, as expressed in the Cancun declaration, particularly when read in conjunction with the preamble. We consider it to be very interesting and to constitute some movement.

Senator PELL. Thank you.

The CHAIRMAN. I have been asked by members whether we will be able to finish one round before the Secretary has to leave. I would calculate that we will be able to keep you on your time limit, which has you leaving some time shortly after 4 o'clock.

Senator Lugar.

Senator LUGAR. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Helms is yielding to you, and we will come back to you next.

Senator LUGAR. Mr. Secretary, how many Nicaraguans are under arms in their Regular Army and in their National Guard or other security forces?

Secretary SHULTZ. Our estimate is that 25,000 in the Regular Army and another 50,000 in the National Guard, reservists, and so forth. They are actively mobilized and on duty.

Senator LUGAR. Is there any record of there ever having been such a large armed force in Central America?

Secretary SHULTZ. I do not believe so, other than the Cuban Armed Forces. I guess you would not consider them to be in Central America, although they seem to be infiltrating in there.

Senator LUGAR. Given the general poverty of that economy, can these 25,000 Regulars and 50,000 National Guard people be supported? This is a juggernaut of military force in a country that is near bankruptcy, if not already there. How is this possible?

Secretary SHULTZ. Well, they get support from outside the country on the one hand, and I think they squeeze their people on another.

Senator LUGAR. Do we have any idea of the amount of support? Estimates are made from time to time of the potential subsidies to Cuba from the Soviet Union. Is there any estimate of flow as far as support for Nicaragua from outside?

Secretary SHULTZ. Yes, sir, there are estimates, and I do not know that I have them right here at my fingertips. I will put them in the record. And there are also estimates about the amount of Soviet support to the Cubans, which I would be delighted to put in the record.

Senator LUGAR. Very good.

[The material referred to follows:]

SOVIET ASSISTANCE TO NICARAGUA AND CUBA

In the last 4 years, the Soviet bloc has signed agreements with Nicaragua for more than \$200 million in military assistance and equipment. About three-quarters of this assistance is from the Soviet Union. In addition, there are about 2,000 Cuban military and security advisers, along with about 200 military and security advisers from the Soviet Union, other Soviet bloc countries, and Libya and the PLO. The Soviet bloc has likewise signed agreements with Nicaragua for approximately \$250 million in economic assistance. I would be glad to arrange a classified briefing for you should you desire more detailed information.

Regarding Cuba, Soviet economic assistance in 1982 was \$4.2 billion. This economic assistance was \$4.6 billion in 1981 and \$3.6 billion in 1980. Data for 1983 are not yet available. In the 1961-82 period the U.S.S.R. provided \$28.7 billion in economic aid to Cuba. The explanation for the apparent fall in Soviet aid to Cuba in 1982 is that Cuba paid a higher price for Soviet oil in 1982, based on a 5-year moving average pricing formula. We have been saying that Soviet economic aid to Cuba in 1982 was \$4.7 billion. This was prior to publication of trade data by the U.S.S.R. revealing the diminished subsidy on oil.

Soviet military assistance to Cuba in 1982 was \$590 million. Cumulative military aid, 1961-1982, has been \$2.5 billion.

Senator LUGAR. In your statement you outlined what I believe is a coherent and credible policy. You began by saying, "First"—and you underlined that—"support for democracy, reform and human rights." Next economic development—and you cited the things that this administration has been doing that are credible and extensive in that area.

Third is dialog and negotiation with all the parties, as to how democracy, human rights, and development might continue.

But then you said, fourth, "We seek a security shield, not as any kind of end in itself, but to provide the necessary protection for the political, economic and diplomatic goals I have just described."

I think that is an extremely important statement, because if there is a juggernaut of military power in Nicaragua unparalleled in the

history of that continent, other nations in the region would, I would guess, have enthusiasm for a credible shield.

Your testimony today is that maneuvers and training, in circumstances not unlike those are found in other countries of Central America, offer credibility to that shield. Let me ask you: Are the Hondurans supportive of the idea of the security shield that you have mentioned? Are the Costa Ricans supportive of that idea?

Secretary SHULTZ. Yes, sir, they are. And I think of course the essence of the security shield is what people do for themselves with our support and the flow of resources to them. But it is their own ability to depend on themselves, to provide the forces in the field, that really counts.

But I think the entity we see as and we refer to as the core four countries in Central America taking part in the Contadora process—among other things the cohesion of those four countries is very much a product of the threat that they see from Nicaragua. It is not very clear in their minds where the effect comes from.

Senator LUGAR. Well, let me ask this, then. Without the credibility of our alliance with the countries of Central America, what stopper is there against Nicaraguan aggression? Is it not physically possible for Nicaragua—given this extraordinary juggernaut of military force unparalleled in Central America—simply to come right through El Salvador, Costa Rica, Guatemala, and even Mexico?

What for example, does Mexico have that measures up to the 75,000 people that are under arms in Nicaragua?

Secretary SHULTZ. Well, I think people of course resist in all countries and would resist in all countries, but it is nevertheless the case that if you posit a situation where one country has a lot of military force and everybody else just lies down on the job, they are going to march through whether they are right or wrong. And that is the whole point of this exercise: They are not going to get away with it, because we are going to see to it as best we can—and the President is very determined on this—that our friends and allies are going to be helped. We must help.

Senator LUGAR. It is often said that Nicaragua is a poor country and surely it would not be interested in aggression against Honduras or El Salvador or Costa Rica or anybody else. What is our evidence as to the intentions of Nicaragua?

Supplied by weapons, by money, and by economic assistance from other forces, could Nicaragua come right through? Without the shield that you are describing today, there literally are no stoppers, not only with regard to Nicaragua, but more importantly Nicaragua allied with Cuba, the Soviet Union, or anybody else that might find that alliance useful.

Is the administration describing this situation in a way that the American people understand why what we are doing is important? I have a very distinct feeling many people in our country do not understand why the shield is important, or what the threat is.

When one describes 75,000 people under arms in Nicaragua juxtaposed to defenseless countries, constituents are very surprised and more understanding of why the United States would be interested in this region.

Is the burden of the briefings that you are now giving almost indefinitely that Central America be elevated to the point that the American people understand why this is a security threat and why what we are doing is a credible four-point policy?

Secretary SHULTZ. Well, certainly the President has gone to great lengths to make this point, and he has gone to the point of asking to address a joint session of the U.S. Congress. That is an indication of the importance he attaches to this problem.

It is an important problem to us. It is important because of the people involved in and of themselves. It is important because it is our neighborhood. It is important because there is no example of a country taken over by the Soviet system in which the people involved have prospered or attained anything like the kind of human rights that we like to talk about. And there are numerous examples where the coming on of a Soviet-style system in a country has produced a veritable flood of refugees who flee from it.

Senator LUGAR. Is it not a fact that about 10 percent of all of El Salvador has already fled to the United States in the last 5 years?

Secretary SHULTZ. There have been a lot of people who have wanted to leave under the threat of the guerrilla activity. But I believe that if we can be successful in helping them construct a system where there is law and order in the country and economic development takes place, then the people, like all people, would like to live at home.

Senator LUGAR. So we have a distinct interest in trying to make certain that conditions improve, so that people will want to live at home and try to fashion democracies and better economies at home.

Secretary SHULTZ. Precisely.

Senator LUGAR. As opposed to the southwest part of the United States or Chicago, Ill., or a lot of places, in fact, where much of Central America has repositioned itself during the terror that has been a part of the scene.

Secretary SHULTZ. Yes. I do not want to get in a position, however, of talking against refugees at all. We are all refugees or descendants of refugees, and our ability somehow to attract capable, energetic refugees has helped to make this country. So I am not opposing them.

But I think that we have to look at the consequences of what might happen and the meaning of the fact that so many people want to leave and that these countries have to construct barriers against people leaving. That must tell you something.

Senator LUGAR. Thank you very much.

The CHAIRMAN. Thank you.

Senator Biden.

Senator BIDEN. Thank you, Mr. Chairman.

Mr. Secretary, I have never doubted your power for a minute, but I am amazed when the chairman said you must leave by 4 o'clock and you said something to the effect, sooner or later, and then looked up, turned around, and looked at the clock.

Secretary SHULTZ. I did not say anything.

Senator BIDEN. I thought you said "sooner."

Well, anyway, turn around and look at the clock. As soon as he said 4 o'clock, that clock moved from 3 to 4. Seriously, the whole hand moved right around. So I do not fool with mother nature. I will pass.
[Laughter.]

Secretary SHULTZ. It is your hearing room.

Senator BIDEN. Well, that is really power. The only other person I have seen do that was Jim Eastland. When he wanted to end a committee hearing, he would get up and put his finger on the clock and move it and say it was over.

The CHAIRMAN. I would just like to observe also, he demonstrated his power as a major in the Marine Corps, to be able to address a vice admiral with authority.

Secretary SHULTZ. Well, I was looking to him for authority.

The CHAIRMAN. As a lieutenant junior grade, I have great admiration for that.

Senator BIDEN. On a much more serious note, Mr. Secretary, following up Senator Lugar's comment and questions, it seems to me one of the things everyone is concerned about—none of us can really speak for the American people, but individually, the administration collectively and the American people collectively—is what is the threat and what are we protecting against?

We have to define that. Some would argue, I being one of them, that maybe the mistake we made in other encounters is that we did not specifically define the threat and the goal. I want to make sure that I do not misunderstand.

The threat as outlined by the Senator from Indiana was the 75,000-man juggernaut force erupting out of Managua into El Salvador, through El Salvador into the rest of Latin America, and ending up in Mexico City.

I am serious. That is what was outlined here. I am not making light of it. Is there any evidence at all—if you would like to tell us in closed session or in public, any evidence at all that you have had—that the Nicaraguans are contemplating the use of massive force outside of their borders? Any evidence at all?

Secretary SHULTZ. Without accepting the caricature of the Senator from Indiana's statement, although I will let him speak for himself, I would say that the answer to your question in the broad sense is yes.

Senator BIDEN. There is evidence?

Secretary SHULTZ. Yes, sir. I am not taking a caricature of this, but let me give you the evidence. First of all, we need to read and listen to what people say, and I think a lot of people made a mistake when they did not read "Mein Kampf." Hitler laid it all out. Nobody believed it.

The Communist leaders regularly say what their objectives are. They do not conceal them, nor does the Government of Nicaragua conceal that what it wants is "a revolution without frontiers." That is not a mystery. You do not have to do a lot of research to find that out. That is No. 1.

Senator BIDEN. Let me ask you specifically. You think that means they are considering the use of their Regular Army outside their borders to overthrow other governments?

Secretary SHULTZ. They undoubtedly want to go about it by a process of subversion, of arming guerrilla groups and trying to disrupt other countries who for one reason or another are relatively defenseless.

Senator BIDEN. I do not doubt that a bit.

Secretary SHULTZ. Then I think you have to ask yourself, what do they want a 75,000-man armed force for, anyway? What is the purpose? Why would they want to do that? As Senator Lugar brought out, it is a poor country. They must have other things they need to do with their resources.

I do not want to sit here and tell you I think they have an invasion plan for Mexico or something like that. I doubt that they do. But they certainly do want to engage in what we would regard as a subversive process, and we see this in various parts of the world.

Now, our response to that, it seems to me, must be to help people insure their own security and to maintain law and order in their society.

Senator BIDEN. The shield that we are providing is the shield that you referred to—your word, if I am not mistaken, “shield,” and that Senator Lugar made reference to, “shield”—is the shield to impact upon their ability to spread that subversion?

Secretary SHULTZ. The essence of what we are trying to do is to help the people of the countries who are threatened to defend themselves. That is the best kind of defense, self-defense.

Senator BIDEN. Tell me what the shield is. Is that the shield?

Secretary SHULTZ. The shield is, in the case of El Salvador, the Salvadoran Armed Forces and the determination of the people of El Salvador to support such an armed force. The shield in Honduras is the same, and so on.

Senator BIDEN. So the shield is not the American military personnel that are on maneuver or training?

Secretary SHULTZ. There are a variety of ways in which we demonstrate our support for what they are doing, and I think that it is important for us to show our friends and our foes that there is a credible deterrent available in the United States.

Senator BIDEN. In broad terms, how long do you expect this training exercise to go on?

Secretary SHULTZ. There are various components of it that are scheduled for different times.

Senator BIDEN. The land-based portion.

Secretary SHULTZ. The land-based portion in Honduras? I will let the Admiral answer that.

Admiral BIGLEY. A closing date has not yet been established. It will be some time after the first part of the year, January, February, perhaps. It is a whole series of sequential exercises. It could go into February depending on the state of training achieved by the Honduran forces as a result of the exercise, so that they can take their graduation exercise, so to speak, fairly able to do those things which they are attempting to be able to do by this training.

Senator BIDEN. Thank you, Admiral.

Mr. Secretary, Senator Percy made reference—and I am paraphrasing—in his questioning, to the fact that there seemed to be some confusion relative to this training mission and maneuvers. I would amend that, not suggesting that he agreed with what I am about to say, but moving from that, it would seem to me that one of the things that most people are concerned about, most of my constituents at least—I speak only for mine, and to the extent that I can—is not whether or not we should be involved at all. I think most feel like I do, that we should be involved, we should not just cut and run and walk away.

On the other hand, there is a great concern about the motivation and intentions of this administration. That comes as no surprise to you, and without my passing judgment on what they are, at least that is an open question out there in the minds of some of the American people.

Now, notwithstanding the assertions of the President and you and everyone in authority that there is no desire to use American forces in that region, they will not be involved in hostilities, et cetera, now, back when we were, in fact, talking about the reprogramming of \$60 million, you recall back several months ago, and during the foreign aid authorization I suggested an amendment that related to training of a different nature, training of Salvadoran troops by American personnel.

We were told, and I agreed, that it is beneficial for that training to take place. To the extent that that training should occur, I had an amendment to say that it must occur outside of the region, it must occur in the United States. We must take the Salvadoran troops to the United States and train them here in the United States, and if it costs more money we pay more money.

To that extent, we added a provision in the authorization. Now, my question is this—and I should add, the administration suggested they had no intention of engaging U.S. military personnel in combat. Would you object to an amendment by me or anyone else restricting the training of Salvadoran troops to the United States of America exclusively.

Secretary SHULTZ. The biggest problem is the provision of the money necessary. It is a very expensive thing to do, and getting money to support this effort is like pulling teeth.

Senator BIDEN. Do you have any objection if we provide the money?

Secretary SHULTZ. Well, you are talking about a lot of money, and you go to the Appropriations Committee and they hang all kinds of things on you.

Senator BIDEN. With all due respect, Mr. Secretary, you know that old joke about, you worry about your guys, I will worry about mine. Assuming that I, in fact, were able to do that—the military has testified on three different occasions the costs would range as high as from 10 times as much to twice as much. We could argue about it, but it would cost more.

If we could arrive at a figure of how much more it would cost and we could get that increased amount, would you object to an amendment by me restricting the training of El Salvadoran troops by United States troops only in the United States?

Secretary SHULTZ. Well, there is a question about the quality of training.

Senator BIDEN. They testified there is a better quality of training here in the United States.

Secretary SHULTZ. By and large, that is true, although it must be so—I am just speaking out of instinct here—that training that is in conditions more like those that you are going to be in to some extent is better than even idealized training in some kind of a center that is long ways away.

But this is something I will look to the military for a judgment on.

Senator BIDEN. Will you consider entertaining that? Would you be willing to discuss that with me over the recess period?

Secretary SHULTZ. Certainly, sir. But I do not want to get us in a position where we wind up with a prohibition against any training in the region from the authorizing committee and then no money to do it from the appropriating committee, and the result of it is we have our hands tied behind our backs. That is one of the problems.

Senator BIDEN. I understand, but I think that would put the minds of the American people at some ease.

Thank you.

The CHAIRMAN. Thank you.

Senator BOSCHWITZ. Mr. Chairman, I have been counting heads around here and see that there are seven of us and that the Secretary has to leave in 45 minutes—

The CHAIRMAN. He has to leave in an hour and a quarter.

Secretary SHULTZ. I will stay as long as you want, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator HELMS.

Senator HELMS. Mr. Secretary, listening to the line of questioning by Senator Biden, particularly early on, it occurred to me that his questions imply certainly that the American people appear to misunderstand that the Soviet Union is something abstract in all of this in Central America. I think it needs to be emphasized over and over again that the Nicaraguans are not just a group of people, the Sandinistas, operating independently of anybody.

I think the story about Cuba and the Soviet Union needs better to be understood. That is the reason I have been insisting with three Secretaries of State that the American people be told something about the Kennedy-Khrushchev accords. I have asked and asked and you have agreed to come up at some time in September. I look forward to that, and I thank you.

Secretary SHULTZ. I do not know that I said September, but anyway I agreed to come up and I will try to do so as promptly as possible and appear before the full committee.

Senator HELMS. I have a copy of a newspaper story from the Miami Herald saying that you have agreed to a limited review. Now, I never suggested a limited review and I hope that is not the assumption of the State Department.

Secretary SHULTZ. Well, Senator, the conversation we had on this subject was right here in this room, and whatever any newspaper wants to say they can say. But you asked me if I would testify and I said that I would, and I will.

And at the same time, I would say to you, I have been studying these accords, of course, and looking into them. There are several files full of papers of one kind or another. It is a very complex subject, and I would want to be as well prepared as I can before any such testimony. And I think it also should be in a closed hearing.

Senator HELMS. I appreciate that, and of course I can understand it.

May I ask you if you would be willing to have the appropriate State Department officer work with the staff of this committee in that connection?

I have been told there are five file drawers on one occasion, and then another Secretary of State told me there are five file cabinets full of information. Now, however, many drawers or cabinets there are, I would not want there to be a limitation, because I believe the American people at long last deserve to know what was in the Ken-

nedy-Khrushchev accord, because I think it has a direct bearing on what is going on in Central America today, and I have thought that all along and I look forward to your visit.

Secretary SHULTZ. I think there are a lot of things to be careful about, including precedents about, leaving aside the Kennedy-Khrushchev accords as such, the release of diplomatic exchanges as a general proposition, and we have to provide some safeguards on that. So that I think is important.

Of course, there have been publicly released the basic documents that go back to the original 1962 incidents, but there have been lots of developments since. It has been a kind of rolling, developing situation.

Senator HELMS. But in any case, I think the American people have the right to know whether we agreed, by implication or otherwise, for the Soviet Union to do what they are doing in our hemisphere. And I think the sooner that is cleared up the better off everybody is going to be, and perhaps it will help you in explaining to the American people what it is all about down there.

In any case, there have been many fears expressed that an undertaking might be in process regarding El Salvador and Nicaragua. For example, this report is circulating in fairly reliable circles in this city: If the Communists will just pull back in El Salvador, we will withdraw our support for the freedom fighters in Nicaragua.

Now, I understand that it depends on who has made the proposition. But first of all I want to ask you if you know anything about any plan of this Government to do that.

Secretary SHULTZ. I do not know what you consider to be in this Government. But if you consider the House of Representatives to be in this Government, they had a vote on that subject the other day.

Senator HELMS. I am talking about the administration.

Secretary SHULTZ. The administration took a position on the Boland-Zablocki amendment that was very clear. There were also negotiations, as you know, about so-called symmetry arrangements, but none that the administration agreed to conform to precisely what you just said.

Senator HELMS. I have been told by sources that I have found to be reliable in the past that the former President of Costa Rica, Daniel Oduber, has been in Havana the past couple of weeks to discuss precisely such a proposal with Castro, including a scenario which would have some sort of cosmetic elections in Nicaragua.

Do you have any knowledge that Oduber was there doing that?

Secretary SHULTZ. I do not. Maybe there is some intelligence I just do not happen to be familiar with right now.

Senator HELMS. Well, let me tighten the situation up a little bit. I have further been informed that Dr. Kissinger met with Oduber recently to discuss this initiative, shortly before Dr. Kissinger was selected for the post. Is that true, or do you know?

Secretary SHULTZ. Not that I know of.

I might say that Dr. Kissinger has made a point of the fact that in the conduct of his activities as Chairman of the Commission his task is and his intent is to give us a look at recommendations for the future and where we should be pointing, and not to get himself involved in the day-to-day operation of our policy and implementation of it.

I think that that is a very appropriate distinction for the Commission and for him.

Senator HELMS. I take it you have had no conversation with Dr. Kissinger about any such meeting involving Kissinger and Oduber, is that correct?

Secretary SHULTZ. That is correct.

Senator HELMS. What is Dr. Kissinger's role?

Secretary SHULTZ. I am sure Dr. Kissinger, if he were to receive any communication of any kind, would simply pass that along. People all over the world are constantly wanting to communicate with Henry Kissinger, and so he receives all kinds of stuff, and where it is worth referring he tells us about it.

Senator HELMS. I am not talking about a communication Dr. Kissinger is supposed to have had. I am talking about a meeting Dr. Kissinger is supposed to have had with Oduber, and that is what I am asking you about. Do you know of any such meeting?

Secretary SHULTZ. I do not know of any such meeting.

Senator HELMS. Well, let us use the hypothetical.

Secretary SHULTZ. I am going to pass on hypothetical things.

Senator HELMS. Well, you maybe ought not to, Mr. Secretary. Would you as Secretary of State advise President Reagan under this or any circumstances to accept a negotiated solution that would impede the Nicaraguan freedom-fighters from attempting to oust the Communist regime?

Secretary SHULTZ. We are going to look at negotiated regional solutions to this problem and we will have to look at them all together, certainly. We have our ideas about how a country ought to be governed, what is best for us, what is best for people in that country.

At the same time, we are not in the position to go around the world telling every country how it should be governed and to do something about it.

Senator HELMS. Mr. Secretary, I admire you and I like you. But I do not think the answer was entirely responsive to my question.

Of course we want to look after our own best interests, we want to look after liberty in the world. But what I want to know is, are we going to pull back from the Nicaraguan freedom-fighters and say, tough luck, boys, we are no longer with you?

Secretary SHULTZ. We have no intention of abandoning people who are fighting for freedom, and I hope that we can sustain a position like that. It is very difficult, as the Boland-Zablocki vote suggests.

Senator HELMS. Mr. Chairman, my time is up.

The CHAIRMAN. Thank you, Senator Helms.

Senator Sarbanes.

Secretary SHULTZ. I am alarmed. I look over here and I see Senator Boschwitz. What is going on here, anyway?

The CHAIRMAN. We suddenly lost our majority.

Senator TSONGAS. One more naval exercise and we will get another one. [Laughter.]

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. Mr. Secretary. I would like to follow up on a couple of questions that Senator Helms asked, because this simple asking of the question places the matter on the record and leaves an allegation outstanding. Perhaps you can help to put it to rest.

The question asserted that the Kennedy-Khrushchev accords have a lot to do with what is now happening with Central America. Is that your perception or the perception of the Department?

Secretary SHULTZ. There was a relation of the content of the Kennedy-Khrushchev accords to development in the region potentially, because they treat with certain kinds of activities as they effect this region. So there is a potential relationship.

I do not want to get into a detailed discussion of the subject, first, in an open hearing, and second before I feel more thoroughly prepared than I do at this moment.

Senator SARBANES. You have no reaction to the assertion that the accords have a lot to do with what is happening, is that an accurate statement?

Secretary SHULTZ. That is Senator Helms' statement and I am going to stand on my statement.

Senator SARBANES. Your statement certainly does not concede his assertion, does it?

Secretary SHULTZ. Does not concede it. I am just leaving it to the side.

Senator SARBANES. Fine.

To turn another question of his in a different direction, can there be a negotiated settlement in Central America, in your view, which does not involve the overthrow of the regime in Nicaragua?

Secretary SHULTZ. Yes.

Senator SARBANES. Now, on the military exercises, it has been asserted by the President himself that these are done regularly, and I was interested in a prior instance in which an operation of this magnitude and dimension—maybe the admiral should respond to this—has been undertaken in that area, so that this could be seen as simply another routine exercise.

Admiral BIGLEY. There have been larger exercises in the region. In fact, this past winter during the month of February they had a large exercise in Panama called Kindle Liberty, which had a participation of about 11,000 U.S. ground troops; 6,000, of course, were the 193d Brigade, which is stationed in Panama. But the additions were brought in from the United States, conducted with the Panamanians in Panama.

We have also had for 24 years what we call Unitas, which is a Navy operation comprised of the U.S. Navy, a small task group of probably four to five ships and a submarine, which circumnavigates South America, participating in a sequential way with the various nations, up to eight or nine nations. That is going on right now and that comprises about 2,000 to 4,000 U.S. personnel in the conduct of one of those exercises.

Senator SARBANES. Of course, we have had exercises in Panama consistently over the years. For the record, I would be interested to know whether approval by the Congress of the Panama Canal treaties is an important factor in our ability to continue to conduct such exercises in Panama.

Admiral BIGLEY. At the present time, of course, we have the responsibility for the defense of the canal. When the canal is fully turned over, procedures for the perimeter defenses in Panama will have to be agreed upon between the Governments of Panama and the United States.

Senator SARBANES. Would you say that that is an important factor in the relationship between the Government of Panama and the United States, and that it is important that we continue conducting exercises there?

Admiral BIGLEY. Yes, sir, I do.

Senator SARBANES. These troops that are going in, Mr. Secretary, are going in for how long a period of time? I know they are going in on a rotating basis, but I understand there will be an American presence there for a 6-month period; is that correct?

Secretary SHULTZ. The admiral will respond to that.

Admiral BIGLEY. We expect the sequence of exercises will be completed some time in late January or early February. The dates have yet to be determined. The first group will be arriving in the next few days. That will be a small headquarters element from the Readiness Command of about 50 people from MacDill Air Force Base. Also a heavy engineer battalion is going in, a survey team is going in. Eventually there will be a Marine amphibious unit of about 1,800 people that will be operating in mid-November.

Senator SARBANES. And how long will they be there?

Admiral BIGLEY. Probably about 10 days.

Senator SARBANES. How long altogether will we be rotating personnel in and out of there?

Admiral BIGLEY. There will be a U.S. presence from this month, August, until February, of some magnitude; at the peak it will be 3,000 to about 4,000.

Senator SARBANES. There is a report in the paper today that says:

The number of U.S. troops participating in the pending military exercises in Honduras has grown to more than 5,600, according to statements by the Pentagon yesterday.

Admiral BIGLEY. That statement was made in a press briefing given at the Pentagon yesterday, talking about number of troops that were going to be on the ground at any time. And they added 3,500 and 1,800 and came up with a figure of about 5,000.

But the figure used was "maybe 5,000." It was a case of a back-and-forth dialog. I have read the transcript, and the figure 5,600 was not used by the briefer.

Senator SARBANES. About 5,000?

Admiral BIGLEY. It could be, but that figure is an approximation.

Secretary SHULTZ. Is that a number, if I might ask, at a given time?

Admiral BIGLEY. That would be a peak. It may get to that magnitude.

Senator SARBANES. So in other words, the 3,000 to 4,000 figure should now be raised to 5,000?

Admiral BIGLEY. I really could not answer that question, Senator Sarbanes, because the numbers have really not been determined. And the way the dialog went yesterday, it was not a precise number, it was an approximation, because somebody was adding up figures and asking the briefer, well then, it could be 10,000 to 20,000. No, nothing like that. Well, maybe 5,000? Well, yes, maybe 5,000.

Senator SARBANES. Would you agree with that?

Admiral BIGLEY. I do not know the answer to that.

Senator SARBANES. What is the maximum number of American troops that will be in there, as you now anticipate this presence, from this month through February of next year?

Admiral BIGLEY. That figure has not been determined, because all of the units have not been identified, and the sequential way in which they go in.

Senator SARBANES. Will that figure be in excess of 3,000 to 4,000?

Admiral BIGLEY. Over the total period of 6 months, the aggregate will be more than 3,000 to 4,000, yes.

Senator SARBANES. At any one time?

Admiral BIGLEY. Not specifically. As I said, all the units have not been identified in the exercises, nor the specific exercises they will be doing over the next 3- to 4-month period.

Senator SARBANES. How long has this operation been planned?

Admiral BIGLEY. It started in May, early June, with discussions with the Hondurans. The Hondurans agreed and planning is going on.

Senator SARBANES. Did the administration discuss this planning with the Honduran Government? Was their direction from the civilian part of the government?

Admiral BIGLEY. It was agreed after the Big Pine I exercise that there would be a follow-on exercise there, to be conducted some time late this year or early 1984. Discussions between the Honduran Armed Forces and the U.S. Southern Command agreed they would like to move it up for training purposes, and the date established was some time in August or September.

Senator SARBANES. So this whole endeavor was decided upon by a move by the Defense Department, without a policy directive either from the State Department or the White House?

Admiral BIGLEY. The decision was made by the President to do the exercise. The planning for the proposal was done by the Commander in Chief of the Southern Command, in conjunction with the Honduran Government.

Senator SARBANES. Mr. Secretary, at what point did you get aboard and start it moving ahead with this exercise at this particular time and in these circumstances?

Secretary SHULTZ. Well, of course everyone was aware of the exercises that went on last February, and there was a plan for a follow-on exercise. Just when and so on was open.

Senator SARBANES. Was the decision as to when made by you or by the Defense Department or by the White House?

Secretary SHULTZ. I think the precise decision as to what exactly to do was made by the President.

Admiral BIGLEY. Yes, sir.

Senator SARBANES. Senator Percy asked you about consultation with the Congress—and I must say, by way of preface, that you have been very good about consultation, “you” being the Secretary yourself. But somehow the process slipped and just what happened is not clear to you in this instance.

My question is whether in effect there was a lack of consultation with you, within the executive branch, and the fact that the consultation process between you and the Congress slipped is to be attributed to the fact that the consultation process within the executive branch involving the Secretary slipped?

Secretary SHULTZ. I believe what happened is something like this. The fact that there were going to be exercises was generally known, I am sure known by Congress. For that matter, you knew about the

Honduras exercise that took place in February, and the fact that there was going to be a follow-on exercise, that was a generally known fact.

The discussion of the timing of those became somewhat more precise as time went on and the plans started to get developed. Now, where you tap into plans exactly and where the reportorial community taps into them and the rumors start, and consultation should or should not have taken place, is difficult to pin down, and it is in this process that it seems to me the consultation process slipped.

Senator SARBANES. Mr. Chairman, my time is up.

The CHAIRMAN. Thank you, Senator Sarbanes.

Senator SARBANES. Mr. Chairman, I would like to include in the record a table from the New York Times of Sunday, July 31, on planned military exercises in the Caribbean and Central America region, comparing the current exercise with the recent major naval and military maneuvers, which I think indicates that in dimension and purpose and quantity and quality this one is different from those that were—

The CHAIRMAN. Without objection, it will be incorporated. Thank you.

[The material referred to follows:]

[From the New York Times, July 31, 1983]

ON MANEUVERS--PLANNED MILITARY EXERCISES COMPARED WITH RECENT
MAJOR NAVAL AND MILITARY MANUEVERS IN THE CARIBBEAN AND
CENTRAL AMERICA REGION

Name of exercise	Date	Location	Stated purpose	Participants
Big Pine 2-----	August 1983 to January 1984.	Honduras; Atlantic; Pacific.	Shield for democracy.	Estimated 4,000 U.S. Army and Marine troops; 19 ships with several thousand crewmen.
Unitas-----	June to Novem- ber 1983.	Caribbean.	Joint naval operations with South American nations.	2,000 U.S. per- sonnel; 12,000 personnel from seven South American countries.
Universal Trek----	May 31 to June 15, 1983	Caribbean (Puerto Rico, Virgin).	Improve capability of U.S. forces in Caribbean region.	3,000 U.S. per- sonnel, including Navy, Air Force and ground crews.
Readex-----	March 10 to April 2, 1983	Western Atlantic, Puerto Rico.	Test ships and aircraft in simulated combat situation.	36 ships and 300 aircraft from U.S.; one Dutch and six British ships; number of personnel not disclosed.
Kindle Liberty----	February 11-17, 1983.	Panama	Training for defense of Panama Canal.	3,000 U.S. Army, Navy and Air Force per- sonnel; 7,000 Panamanian National Guard.
Big Pine 1-----	February 1-6, 1983.	Honduras.	Promote hemis- pheric soli- darity and good will.	1,600 U.S. Army, Navy and Air Force per- sonnel; 4,000 Honduran troops.
Ocean Venture-----	April 27 to May 16, 1982.	Caribbean; Gulf of Mexico.	Simulated combat exercise.	45,000 personnel; 60 ships; more than 350 aircraft; U.S. forces; Dutch navy and marines.

Source: Department of Defense.

The CHAIRMAN. Senator Kassebaum.

Secretary SHULTZ. Can I make a statement on this? And I know that is always a mistake, to volunteer. But it seems to me that the situation is like this. Exercises and maneuvers are undertaken almost perpetually, and they are of varying sizes and they go on all over the world. And basically that is what armed forces do—they train.

There have been exercises of varying dimensions in this region before. In this case there is an aggregation and a timing of exercises designed, as I said in my statement, on the one hand to further the objective of training, and on the other hand to underline by the very fact of their existence and their continuity the American capability for deterrent.

So in that sense, they are designed to make a point.

The CHAIRMAN. As I recall, I gave the history of the exercises that have been carried on.

Senator SARBANES. The only point I want to make is that it is not accurate—and I think your statement underscores that—simply to refer to what is now taking place as routine or being simply within the previous pattern. It is not routine in quality and quantity and purpose. It is different from the previous pattern. That is the only point I wish to make.

The CHAIRMAN. Thank you very much.

Senator Kassebaum.

Senator KASSEBAUM. Mr. Secretary, if you will forgive me, I would like to make a little statement of my own before I ask a couple of questions. I have been reflecting on what our role is as a Foreign Relations Committee in a very sensitive time in the evolution of policy. I do not think there is a member of this committee that does not support the President's objective, as outlined in his speech before the joint session, of preventing a wider crisis and bringing about peace in the area.

But there are some of us who have some concerns about an emphasis on the rhetoric, about some of the directions of the policy and the timing of that direction. When we raise that concern, it is sometimes viewed as being in opposition to the President. That places us in a confrontational role, which certainly is not the purpose of any of us who have questions about that policy.

That is why I would certainly say to you, I am pleased you are here. But consultation before the enunciation of policy could perhaps prevent some of the problems we have had and would better help the American people understand, because the questions that we are raising are the questions that everyone has.

I found a comment of Justice Brandeis that I felt was particularly relevant when he said: "The doctrine of the separation of powers was adopted not to promote efficiency, but to preclude the exercise of arbitrary power." And it is not efficient, certainly.

It can be quibbling on our part when we are arguing over whether it should be \$30 million, \$50 million, or \$60 million for various security assistance programs. But that is the avenue that has been left to us many times, Mr. Secretary.

I think the country can ill afford further controversy over the U.S. role in Central America. It is going to be a long road ahead. There are

deep-rooted problems that really do not address themselves to quick solutions.

I would say to you that you are an acknowledged master in the art of listening and of building consensus. You proved to the President and to us and to the country that you could lend a steady hand in the Mideast and help to find an approach to the volatile issues there that has served us well. While perhaps not in a spectacular fashion, still it lent a direction and an initiative that was very important.

I would just like to say that, on my part anyway, I would like to hear more of your low-key tone in decisions relating to Central America. I think we would like to have more of the listening and consultation that marked the formulation of policy that you have been enunciating in the Middle East, and I would hope that you would carry that message to the White House.

Secretary SHULTZ. I think by this time I have the message about consultation.

Senator KASSEBAUM. I would hope that also, however, that in the consultations the message will be taken back and given some thought, too, rather than just a policy handed down, because to be effective it has to work both ways.

I think for those of us who are placed in the position of being regarded as unpatriotic, it makes it very difficult. I hope we have not reached the point in this country where we cannot voice some thoughtful concern about the direction of policy without it being viewed as not supportive of the President, because certainly I and I think everyone else here supports the thrust of the President's policy.

Secretary SHULTZ. Senator, let me say, on your question of bringing things back to you, hardly a day goes by when I am in town here that I do not see the President or have the occasion for even a brief moment's casual conversation with him in which I pass along information. And every day, every day without fail, I send him a so-called night note that lists things of significance of the day, and he reads that every day.

So that there is a communications pattern that is systematic and regular, and it is also an informal regular conversational pattern. So I am able to get back to the President anything that seems to me to be important.

Senator KASSEBAUM. I am glad to hear that, and I hope you think this is an important enough message to include in your night note.

Secretary SHULTZ. He has got it.

Senator KASSEBAUM. When Senator Lugar asked, does everyone understand why this is important, I think everyone is striving to understand it, because certainly, as Senator Biden said, nobody wants to turn their back on this grave problem. They have not wanted to do it from the very beginning.

But too many cooks can spoil the broth. If we are going to speak on this problem, we have to speak with a voice that will lend consensus on the issue.

I would like to ask a couple of questions before my time runs out. I wonder if there was any consultation with the Contadora group prior to the announcement of the maneuvers. I realize it was not an announcement that came about through faulty planning. But had there

been any effort to notify the Contadora group before the announcement of the exercises?

Secretary SHULTZ. We would as a normal course, I think, tell countries, if you are going to operate off the coast, what is going to happen. That is the standard operating procedure that the Navy would follow, coordinating with us. And obviously, the Hondurans participated in the February exercise and participated in figuring out when a follow-on exercise would take place, so they were aware of it.

Senator KASSEBAUM. They were aware of it before the President's press conference, where he said a note had been sent to the Contadora nations? Is that right?

Secretary SHULTZ. Well, there are all kinds of subjects floating around here, and perhaps the admiral could comment on the planning process, since he raised the Honduran one in particular, as to how you went from the February to planning for what is now getting under way and what kind of contacts you had, so in a sense what do they know about.

Senator KASSEBAUM. I know of the February one, but I did not know if they had been notified of the exact magnitude of this exercise.

Admiral RIGLEY. They agreed in late May, Senator, that they were willing to have another exercise and to move the time up from what we originally thought it would be to late 1983 and early 1984. And the reason for that was because of the situation which was developing, and they felt that they needed that training now rather than later, because of the Nicaraguan forces poised on the border.

Senator KASSEBAUM. Were the carriers in the scope, or was it just to be—

Admiral BIGLEY. The scope of the exercise had not been fully worked out, and the only thing that really happened unusual with this was the Ranger battle group, and that was really an opportunity. The Ranger battle group was leaving San Diego on July 15, heading for the western Pacific as a training group consisting of a carrier with eight supporting ships.

They were available to go down off the coast of Central America to really show a presence, providing some of that shield that Secretary Shultz has been speaking about, because it was ready. And that aircraft battle group could do its training off Central America as well as they could do it in transit in the Pacific. So they moved quickly.

Senator KASSEBAUM. Is this a communication that comes through the military offices or is it through diplomatic channels?

Admiral BIGLEY. It is coordinated with the State Department and through the whole interagency, with Presidential approval, to do that type of a diversion of forces. Regrettably, as Secretary Shultz testified earlier, the fact that a leak occurred—and where that occurred we do not know, was very distressing because it was getting out in the press before the deployment orders were even being received by the ships in some cases.

Secretary SHULTZ. I think we can say that the process of communication, consultation, and notification was not ideal. However, we try to make it as good as we possibly can.

Senator KASSEBAUM. Yes, Mr. Secretary, I think that is a very honest statement. And I have run out of time, and I thank you. I talked too long to begin with.

The CHAIRMAN. Thank you very much.

Senator Tsongas.

Senator TSONGAS. If I could discuss an issue other than communication, I frankly do not care as much about communication as I do the policy. So it is hard to get you to change the policy. I do not know whether I could get you to communicate at all.

Just for the record, I do not want to allow the statement by Senator Lugar to go unchallenged. He said that 10 percent of the people have left El Salvador because of the violence brought about by the insurgency. I would submit that they have left because of the violence, period, the violence of both sides. I do not want that statement to remain unchecked.

Can we discuss the incident between the American and Soviet ship, Admiral, of yesterday? When was the last time an American ship encountered and interrogated a Soviet ship about its contents?

Admiral BIGLEY. I could not give you a definitive answer, but it is not an unusual occurrence. In my experience in having operated in the western Pacific and in the Mediterranean, it is standard practice at sea with an unidentified ship to exchange calls asking his name, destination and his cargo.

There is nothing unusual about that. It is also part of the training exercise. When you do surveillance at sea, part of it is reporting what you see at sea, getting the rigging of the ship, if it has masts, a stack, boom, et cetera, identifying the ship, taking pictures if you can.

Senator TSONGAS. This is the *Ulyanov* we are discussing. This is the same ship the President referred to. So the President knew who the ship was, but the commander of the destroyer did not?

Admiral BIGLEY. It is difficult to know the name of a ship unless you can get close enough to read it on its fantail, on the stern of the ship. And normally you get that by calling him. He was probably a mile or three-quarters of a mile away when he challenged him by bridge-to-bridge communications to ask him his name and destination.

Senator TSONGAS. From three-quarters of a mile away, he could not read—

Admiral BIGLEY. Unless you get directly astern of him. If he is on your beam or you are slightly forward of his bow, it is difficult to read the name. The name is only on the stern of the ship.

Senator TSONGAS. Since the President had made a particular point about this particular ship, when it was leaving the region, do you mean that the commander of the ship had no notion that this may be the ship that the Commander in Chief was referring to?

Admiral BIGLEY. He may well have known that. If he had had reports, he would have been on the lookout for such a ship, yes.

Senator TSONGAS. Did he have any?

Admiral BIGLEY. That I do not know, but I would assume that he did.

Senator TSONGAS. Mr. Secretary, if I may ask you a question, when Ambassador Stone met with Ruben Zamora that was a major breakthrough, I believe, in our process and progress in Central America in the administration. So you have a United States-El Salvadoran insurgent dialog at least beginning. And you said, and others have said, that the United States would be willing to do the same vis-a-vis Nicaragua.

Does it not then follow that since Cuba is the source, I think most of us would agree, of much of this, that the United States should engage in a dialog with Cuba as well? I know that Vernon Walters was there in early 1982. My question to you is, would you be willing to meet and talk with the Cubans?

Secretary SHULTZ. There have been discussions. You mentioned one. There were others in the Carter administration, and they did not prove particularly fruitful.

It seems to me that right now we need to concentrate on what is going on in Central America and in trying to encourage and do all the things that we can that will promote a regional solution to the problems there, so that stability can come about and people can get on with the job of economic development.

The prior—as I say—the prior discussions with the Cubans have not been particularly fruitful, nor have we been able to get anywhere, for example, on getting them to take back the criminals they sent us a couple of years ago.

Senator TSONGAS. If Castro indicated a willingness to talk with you, would you be willing to sit down with him?

Secretary SHULTZ. I would not want to say right offhand.

Senator TSONGAS. That answer leaves me with little to go on, which I expect was the intent of the answer.

Secretary SHULTZ. No. You asked me a question and I tried to give you a straightforward answer.

Senator TSONGAS. Well, let me try it this way. Castro at my count has gone through seven U.S. Presidents. Do you think it is time to reassess our policy with Cuba?

Secretary SHULTZ. We are constantly assessing our policy toward Cuba and other countries. There have been variations in the sense of the relationship between the two countries. There was during the Carter administration an effort to move that relationship, and in the end it did not pan out.

But certainly our relationships with Cuba ought to be constantly reviewed, and is.

Senator TSONGAS. Can you imagine a situation in the relationship between ourselves and Cuba that could be worse than where we are today.

Secretary SHULTZ. I suppose so, yes.

Senator TSONGAS. Ask a dumb question and— [Laughter].

The CHAIRMAN. I would suggest you might want to ask that same question of Senators Cranston and Glenn, to see whether they would give a prompt recall—I can recall that vivid picture of George McGovern driving around in that jeep. It did not seem to be a helpful, joyful ride for him.

Senator TSONGAS. I think I will quit while I am behind. [Laughter.]

Let me try something else.

Eden Pastora and Robelo of ARDE and Zamora and Calero, FDN, have all stated that they are intending to overthrow the Government of Nicaragua. Assuming for the sake of argument we give them covert aid, our position is that we do not give them the aid to overthrow the government; we do it to pressure them.

If someone came up to me and said, give me a gun, I would like to shoot the Secretary of State, and I said, well, here is the gun, but I

want you to scare him, not shoot him, and he takes the gun and proceeds to shoot the Secretary of State, am I at all responsible for having provided the arms for that person to fulfill an intent clearly stated?

Secretary SHULTZ. Well, you personalize that in a way that makes me nervous. [Laughter.]

Senator TSONGAS. I just wanted to get your attention.

Secretary SHULTZ. Because I am going to Massachusetts in a week or two.

I think in the case that we are talking about, and the type of situation we are talking about, does not necessarily have to be the case that everybody's objectives are the same, as long as, from our point of view, there is an advance toward the objective that we have.

Now, without getting into what may or may not be going on by way of covert action, it does seem to be the case, so far as I can see anyway—just my judgment—that the appearance of the contras in various forums and the obvious fact that they seem to attract people, Nicaraguans, to them is a factor in causing difficulty for the Nicaraguan Government. It must distract them. It seems to have some impact on the flow of arms to El Salvador, and it is one of the factors—not necessarily the main factor or the sole factor, but one of the factors, I think—that is leading to the somewhat better picture militarily in El Salvador that we now see.

And I do not want to overstate that, because we all know that this tide ebbs and flows somewhat, but right now there is a pretty good flow.

Senator TSONGAS. Finally, the definition of "covert activity" as I understand it is that we do something that nobody knows about. Could you supply for the record names and addresses of the people who do not know what we are doing in Nicaragua?

[Pause.]

Senator TSONGAS. I get the impression my time is over.

The CHAIRMAN. Thank you, Senator Tsongas.

Senator BOSCHWITZ.

Senator BOSCHWITZ. Mr. Secretary, I have been in the Senate a little over 4 years and you are the fourth Secretary of State.

Secretary SHULTZ. I am beginning to feel more and more expendible, between their program and your 1-year average. I just passed that anniversary. [Laughter.]

Senator BOSCHWITZ. I heard you are going to Massachusetts. You might conduct some maneuvers off the coast to scare off those fellows that Senator Tsongas has in mind.

But in any case, of the four Secretaries and my experience with them, in perfect fairness, I think anyone who attends these hearings with any regularity would have to say that you have consulted with us far more than your predecessors. And while it may have been a mistake not to consult in this particular instance, nevertheless I thank you for the very many consultations that you have initiated, often on your accord, coming to us on various issues of the day.

Without a question, people who have been at these hearings consistently would have to agree that you have consulted with us far more than your predecessors, at least those I have had a familiarity with.

I would like to ask—Senator Sarbanes referred to this article from the Sunday New York Times—about the quantity and quality and

how many ships are on this particular maneuver. Perhaps the admiral can answer more directly or more authoritatively.

I notice that in this list of maneuvers, there was one a year ago here called Ocean Venture, and that, as opposed to 19 ships that now—yes, 19 ships in this one. There were 60 ships in that one. There were 45,000 personnel, there were 350,000 aircraft, there were U.S. forces, the Dutch Navy and Marines.

Did you consult with us at that time with respect to that particular maneuver? Did you have any consultations? I do not recall that there were regarding that particular maneuver. Where did that particular maneuver occur?

Admiral BIGLEY. That particular Ocean Venture was a series of exercises which commenced in 1980 under the auspices of the Commander in Chief, Atlantic Fleet. And it was a way in which we were going to utilize all of the forces in a sequential manner, including the forces of our allies. That Ocean Venture then went into what we called an Ocean Safari exercise.

The first one, I happened to be commander of the 2d Fleet which is the operations commander in the Atlantic, and that exercise eventually, during Ocean Safari, got to be 168 ships.

And no, there was no consultation done, because it was a training exercise that we do.

Senator BOSCHWITZ. Did it come into the Caribbean or was it all out in the Atlantic?

Admiral BIGLEY. Ocean Venture went into the Caribbean and then proceeded across the Atlantic and then joined with the Ocean Safari aspect of it, eventually building up to that size force.

Senator BOSCHWITZ. I also noticed the Kindle Liberty exercise. That is kind of an ongoing set of maneuvers that are held in Panama, is that correct?

Admiral BIGLEY. Yes; that was February this year, with approximately 11,800 troops involved in Panama, training with Panamanians.

Senator BOSCHWITZ. Then there was one in Puerto Rico in the spring of this year, Redex.

Admiral BIGLEY. Redex. A readiness exercise is a training exercise for the U.S. Atlantic Fleet, primarily under the auspices of the commander, 2d Fleet.

Four years ago we shifted most of the exercises to the Caribbean area, particularly off of Roosevelt Roads, where we have a large training area. Rather than doing the training off of Norfolk, Va., or Mayport, Fla., the center of the operations was shifted to the Caribbean at that time. So we have had very large exercises in the area.

Early this year we had three carrier battle groups exercising in a readiness exercise in the Caribbean.

Senator BOSCHWITZ. And were consultations between the Congress—

Admiral BIGLEY. No, sir; not considered necessary in a normal training exercise.

Senator BOSCHWITZ. Is this a normal training exercise?

Admiral BIGLEY. This one, what they are doing is actually normal. The fact that they are there at this particular time, for the reasons the Secretary has outlined, could be considered to be other than nor-

mal, because there is a situation there which the United States is concerned about.

Senator BOSCHWITZ. It could be considered other than normal, and on that basis perhaps the consultations should have been called for.

What about Libya? I notice in this morning's paper that there is an exercise going on in the Gulf of Sidra, and that one of the carriers was to be called into the Caribbean, but now is going to be left out there for a couple of extra days. At least that is what I read in the paper.

Were there consultations with respect to that as well?

Admiral BIGLEY. No, there have not been. The *Coral Sea* is the carrier you are referring to, and the *Coral Sea* is not involved in the central Mediterranean. The U.S.S. *Eisenhower* is there operating in the central Mediterranean north of the Gulf of Sidra.

Senator BOSCHWITZ. So as the Secretary said, it is the business of the armed forces to engage in training on an ongoing basis. And would you characterize this therefore as a large exercise or a small exercise, a medium type of exercise?

Admiral BIGLEY. This would be a medium-size, moderate-size exercise. What we are doing in Honduras, I assume you are referring to, Senator?

Senator BOSCHWITZ. Yes, that is correct.

Then really, only the fact that it is taking place at that place is what is unusual and might have called for consultations.

Mr. Secretary, I want to return to my colleague Senator Lugar's point. I would agree with the comments that were made and I doubt that there is an invasion planned that is going to carry right up to Mexico City. But the question really does arise, why are they maintaining a force of 75,000 men and women in a country the size of Nicaragua and with the economic problems that it has.

If I may ask—how many soldiers does Costa Rica maintain? That is Nicaragua's immediate neighbor to the south. I am not even sure that they maintain an armed force. Do they?

Secretary SHULTZ. No, sir.

Senator BOSCHWITZ. They do not, do they?

Secretary SCHULTZ. No. They make a point of saying they are a democracy, they are peaceful. And they obviously have to keep law and order within their country, but they do not maintain an armed force at all.

They are being threatened, of course, and it makes them nervous.

Senator BOSCHWITZ. Well, perhaps the Nicaraguans are seeking to repel something from the north. The Hondurans have a large force, do they?

Secretary SHULTZ. There is no credible threat to Nicaragua that would cause them to have to have an armed force of that size.

Senator BOSCHWITZ. And the so-called contras, is that a threat to the overthrow of Nicaragua in your judgment?

Secretary SHULTZ. If they conduct themselves in such a manner that they alienate more and more of their people, then the contras constitute a threat to them. But it is a threat they create by their own activities.

Senator BOSCHWITZ. But the 75,000-person armed forces, to what do you attribute that in that case? For what purpose are they maintaining it?

Secretary SHULTZ. You just have to speculate about it. It is one of those facts that you have to look at.

The Honduran Armed Forces, I am advised, are on the order of 17,000 right now.

Senator BOSCHWITZ. So that the maintenance of this very large armed force is perhaps directed as much at their own people as much as their neighbors, is that fair to say?

Secretary SHULTZ. I will just let you speculate about it. I do not know.

Senator BOSCHWITZ. Mr. Secretary, you were also asked, by Senator Tsongas, whom I note has left, about the Cubans. As I recall in one of the previous meetings that you have had here, you said that efforts have been made, quite aside from the efforts during the Carter administration, that efforts were made early in this administration to seek better relationships with Cuba, and that the efforts were not very satisfactory.

Can you expand on that?

Secretary SHULTZ. I believe that General Walters, who is a kind of Ambassador at Large, undertook a mission and that the result of it was not particularly satisfactory. General Walters, as it turns out, had met Mr. Castro when he first came on the scene and came to New York. So he knew him, he had some background of a relationship.

Senator BOSCHWITZ. I see my time is up, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Boschwitz.

Senator Dodd.

Senator DODD. Thank you, Mr. Chairman.

Mr. Secretary, welcome to the committee. I will try to be brief. You have been very patient.

First of all, let me do something which is a bit uncharacteristic, I suppose, of the past 2 years, and commend at least the effort that is under way with Ambassador Stone and the insurgents in El Salvador. I have long felt that was a positive way to proceed and I hope it is successful.

I may add that I think it is important not only to involve the Contadora process, which is something the President has suggested he is willing to support, but I would urge that Felipe Gonzalez in Spain, Mario Soares in Portugal, Pena Gomez in the Dominican Republic also be included, at least kept informed as to the progress of those talks. I think they can be extremely helpful in bringing them to a successful conclusion.

I would like to stress to you, that my concern is primarily on the military side of the equation. The diplomatic one seems to be under way and I will have a question or so on that. But the military element is the one I suppose that I find—and I gather you would pick up today—raises the most concern among members here, as to what we are about, what we are doing militarily in the region and whether that military activity will in some way disrupt the diplomatic effort to bring some peace and stability to the region.

I would like to first of all ask you whether we would be prepared, or whether we have reached any kind of assurances or agreements with the Honduran Government to support them militarily should, for whatever reason, the Nicaraguan Government cross the Honduran

border in a military way? Are we prepared to defend Honduras and have we given them any assurances of that?

Secretary SHULTZ. We are certainly prepared to help them. In what way would depend on the circumstances. And I call your attention to the fact that there is an Organization of American States and there is an agreement, if there is an invasion of one country by another, in or out of the hemisphere, that it calls upon the members of the OAS to respond.

And how they would respond would depend upon what happened, and there are various steps that could be taken, as I understand the way this would work, and a two-thirds vote would bind all the members, with the exception of the use of armed force, which no nation will give up control over.

So the answer to the question is, it would depend upon what happened and then the OAS would be a port of call on this and would examine the situation. That is the way that would go.

I would say, on the general proposition that you put, it is not a question of strength or a military course versus diplomacy. The two things go together and they are matters that have an interplay that is important, and that I think is precisely what we see unfolding before our eyes. It is almost a classical case here.

Senator DODD. The concern is whether the military side of that equation will in some way disrupt the diplomatic.

But as I understand the response—and I think I do—there have been no assurances in a bilateral way to the Honduran Government that we would come to their defense should the Nicaraguans cross their border? We would go through the Organization of American States.

Secretary SHULTZ. They have the assurance of the OAS process, as do other countries.

Senator DODD. No personal assurance from this administration or our Government that we would come to their defense militarily?

Secretary SHULTZ. They certainly realize that we support them. But we do not have a commitment as such to let them pull that trigger for us.

Senator DODD. In 1954 we entered into an agreement with the Honduran Government. Is it your understanding that that agreement is unclassified?

Secretary SHULTZ. I would like to stand back from that and give you an answer for the record. Do you want to respond, Tony?

Ambassador MOTLEY. Yes, I believe that is the 1954 agreement on facilities.

Senator DODD. The facility agreement is an unclassified agreement, all right.

We entered into a related agreement with the Hondurans in June of this year, 1983, dealing with training and training facilities. It is my understanding that that agreement is classified, is that correct?

Mr. SANCHEZ. It was provided to the Congress.

Senator DODD. On a classified basis?

Mr. SANCHEZ. Unclassified, if you are referring to the military construction for two airfields at Comayagua and La Ceiba.

Senator DODD. The June agreement we received had marked "Classified" on it, is that correct? "Classified Confidential" was the labeling on it.

Mr. MOTLEY. I will have to check for you.

Senator DODD. I can tell you, and the staff here will confirm, it is classified. It is a classified document. That is the reason I raised this line of questioning. I am curious as to the reason why.

We also have agreements, training, and facilities agreements with Panama, which are unclassified, and as I understand it, the bulk of our military training occurs in Panama. At least it has over the years. And obviously, the question arises, why is that particular part of that agreement with Honduras in June of this year a classified agreement, when the other agreements, particularly the one with Panama, where the bulk of our military training activity occurs in this hemisphere, as well as the original 1954 document, are unclassified?

Secretary SHULTZ. I do not have a full answer to your question on this case, but as a general proposition, as agreements for bases and training and so forth take place around the world, sometimes the country involved has a particular sensitivity about it. They may not wish it to be known or they may not wish it to be known immediately, and they may want to run it through their own process before something comes forward.

So there are all kinds of reasons why, as something is being worked out, they may want to have the opportunity to bring it forward in their own country in their own way. And as a matter of fact, one of the problems we have around the world is people get a little nervous about dealing with us because we have such a hard time keeping anything quiet and allowing them to bring something forward in their own way.

Senator DODD. In other words, what I gather in this particular case is the classification was at the request of Honduras, but not something that we originated, is that correct?

Secretary SHULTZ. I think so, but I am not sure about that.

Mr. MOTLEY. I am just saying they vary from case to case. I do not know the answer, but I think you are correct in your assessment.

Senator DODD. You think I am correct in my assessment. You do not know for sure, but you think I am correct.

Mr. Secretary, with respect to U.S. military involvement in El Salvador, there have been a lot of reports about the number of advisers increasing. The stories in the press suggest that that number might exceed 100.

I wonder if you might share with the committee exactly where that issue stands given the present plans and whether you can give this committee the assurance that, at least during the congressional recess period, between now and the second week in September, that there would be no increase in the number of military advisers beyond the 55 in El Salvador.

Secretary SHULTZ. They are trainers, not advisers, first of all.

Second, there are less than 55 right now.

Third, there are those who are responsible for the military side of things who think that the number of trainers is inadequate, and they

have made that point and argued that point and we have gone around in that circle in terms of where training takes place and so on.

But still, there are those who believe that we should have more trainers and that the disposition of them should be more field oriented, so that they are a little closer to where the training activity would take place. I believe I am correct in saying this to you, that the discussion of that subject goes on in an interagency group that Secretary Motley chairs, and there has not been an emergence out of that to the President of any particular recommendation at this point.

But there are those who believe that the number should be increased.

Senator DODD. Let me just complete the question. Can you give us assurances? Granted, you are looking at the issue. But can you assure this committee—obviously, there is some unease that we will be gone now for 4 or 5 weeks. Can you give us any assurance, based on the fact that it is only in the study phase, that there will be no increase in that number of trainers?

Secretary SHULTZ. There was an undertaking that I made, authorized by the President, and in a letter to Senator Kasten at the time of approval of the reprogramming of funds that if there were to be an increase in the number there would be consultation with the Congress, and there will be consultation with the Congress if there is a desire to increase the number.

It is easier to do that when you are here in town, but it is not impossible when you are not.

Senator DODD. And that would include the members of this committee as well, I presume?

Secretary SHULTZ. It would include the members of this committee as well.

Senator DODD. Thank you, Mr. Chairman. I have a couple more questions, but I will defer to the chairman and others if we can. The Secretary has been very kind to stay a little bit longer.

The CHAIRMAN. If we get you out by—I have 5 minutes that I would like to do of committee business with you in open session, a couple of statements and a couple of announcements while you are here that you might be interested in. I can do that in 5 minutes.

Senator Kassebaum, do you have anything further?

Senator KASSEBAUM. No.

The CHAIRMAN. Fine. Why do you not take the next 3 minutes, then, and we will have you out by 4:30 then.

Senator DODD. I was going to negotiate a little bit higher, but I appreciate it, sir.

Mr. Secretary, you testified before the House committee several months back and said, speaking of the Salvadoran insurgents, that you did not want to see, nor did this administration want to see, them shoot their way into power, words to that effect.

Secretary SHULTZ. Those are my exact words.

Senator DODD. We have diplomatic relations with the Government of Nicaragua. We have an Ambassador there. Do you apply that same standard when talking about the contras and the Government of Nicaragua, or do we turn our head and look the other way if that should occur?

Secretary SHULTZ. We observe the activities of the contras. We observe that the Government of Nicaragua has turned its back on the undertakings that it made and it is conducting itself as a government in a way that does not surprise us. The people are reacting negatively to it.

Senator DODD. People can shoot their way into power in Nicaragua?

Secretary SHULTZ. The fact that there are contras is hardly a surprising activity. Beyond that, I am not going to comment on our own activities there.

Senator DODD. I think you have answered that Ambassador Quainton in recent remarks talking about our role, our policy is not to topple the Sandinista Government, our policy is to try and modify its behavior in some substantial ways. Earlier we were told, of course, that the efforts along the Nicaraguan-Honduran border were to interdict the flow of arms from Nicaragua to El Salvador and that was the sole purpose and reason, according to many sources anyway.

It would appear now that this sole reason has been expanded a bit to include modification of behavior of the Sandinista Government. As you well know—you have already cited as a source here this afternoon—the Rio Treaty, the OAS Charter, the United Nations Charter, to each of which the United States is a signatory, all prohibit clearly, the interference, military interference and attempt to overthrow a neighboring State in this hemisphere.

Now, the effort to modify behavior sounds to me like a euphemism for overthrow of such a government. Can you explain how this modification of behavior in a substantial way does not qualify as interfering in the internal affairs of another nation?

Secretary SHULTZ. They are shipping arms to the El Salvador guerrillas and we want to modify that behavior and get them to stop.

Senator DODD. And we are willing to violate the law to do that?

Secretary SHULTZ. We certainly intend to help in every way we can to stop the flow of armaments into El Salvador for the purpose of disrupting the Government of El Salvador, and that is—and that is—coming from Nicaragua. And if they do stop, that will be a change in their behavior.

I might say also that if they are induced to take part in the efforts that you at least inferentially endorse, namely a process of negotiations to bring about a regional solution and some stability in Central America, that will also be a change in their behavior and I think it is desirable.

Senator DODD. I do not want to overpress the point, Mr. Secretary because I do not believe you really mean to leave a bad impression. But clearly, we have laws, and are a Nation of laws.

It is not your suggestion here this afternoon that we would condone the interference in the internal affairs of another nation, even if it meant violating the laws of this land, in order to achieve an end which we have desired or at least stated as being desirable?

Secretary SHULTZ. We violate no laws. Everything we are doing is legal and according to the statutes under which we are operating.

Senator DODD. Then why have we not gone to the OAS in this circumstance—

Secretary SHULTZ. The OAS we hope is increasingly aware, and I think it is an advantage for the OAS to see, the way in which the Sandinistas have basically stolen that revolution and have turned their back on the undertakings they made to the OAS, which led to support for their revolutionary efforts.

Senator Dobb. Mr. Chairman, my last line of inquiry has to do with negotiations, going back to the first point. On July 17, as you know, the four Presidents, the Contadora Group, issued a statement in Cancun outlining 10 points, specifically detailing how they would like to see some peace and stability brought to the region.

We now know, of course, that within a few days the Nicaraguan Government, for whatever reasons they may have had, issued a statement that at least in some way endorsed the Contadora plan and outlined again some specific points for a negotiating process. Cuba did the same some time thereafter.

Our President has said that he endorses the Contadora process. Why have we not become more specific, in light of the fact that others in the region have, in terms of how they would bring about some peace? Will such a specific proposal be forthcoming?

Secretary SHULTZ. We have been very specific. You started your history on July 17. I think if you go back in your history you might start with the—at least go back to—the San Jose declaration, in which some principles were set forward as a basis for a regional solution to the problem, and that is something that we endorsed and took part in.

And I think—and I agree with you—that it is a point of some encouragement that, at least as a matter of rhetoric and statement, there has been movement now. And I think, at least as we see it, there is movement in the direction of the San Jose principles that were set forth. Particularly if you look at the Cancun declaration, I think that there is a lot of merit in it. I do not consider it perfect, but it is a movement in the right direction, particularly when you read not just the 10 points but the preambulatory material that went with it, which did give some nod to democratic institutions and their importance.

Senator Dobb. Very shortly after that announcement on July 17, it became public, from whatever source, that we were going to engage in some significant military maneuvers in the region. In response to Senator Kassebaum's question about whether or not we had informed the Contadora group of such an action, the response was that we had informed the Honduran Government. Of course, they are not a member of the Contadora group.

I would like to ask the last question again: Whether we did inform, individually or collectively, the Contadora nations of our intention to engage in a rather significant, both in terms of quantity and quality, military maneuvers in the region?

Secretary SHULTZ. I think we have explained here that there was a process of planning and emergence of precisely what was going to be undertaken which unfolded over a period of time and led to a process of consultation and communication that was, to quote myself a moment ago, not ideal.

They were told. Whether we told them in time and in the right context—we fully realize that no doubt we could have done it better, if that is your point. However, they do know and I believe on the whole they appreciate what is going on.

Senator DODD. And is it true that the Venezuelans and the Panamanians have expressed regrets over those maneuvers?

Secretary SCHULTZ. There have been various public expressions by different people, one way or another, and I might say there have been a great number of private expressions saying, hooray for you.

Senator DODD. Thank you very much, Mr. Chairman, Mr. Secretary.

The CHAIRMAN. Thank you, Senator Dodd.

First, I would like to ask you, Secretary Shultz, about the certification, the fourth certification that we have just received, I have just been given a copy of and the Speaker of the House has. In March of this year you indicated, if they, the Salvadoran Armed Forces, do not clean up their act, the support is going to dry up, and they have been told that and they know that, and that will happen.

The report that we have received from you seemed to be more qualified on the aspect of human rights, more so than any other previous report. Also, dated July 19, we have received a report on human rights in El Salvador from America's Watch Committee and the American Civil Liberties Union, in which they conclude that the situation continues to worsen in El Salvador and they conclude also that, having listened to the lectures from the American Embassy and the U.S. Government, that they disregard those lectures and they see the aid escalating and increasing, rather than being reduced.

My question is simply, do you really feel that in this past 6 months covered by the certification period that El Salvador has made substantive progress, as is required by law now, in the area of human rights?

Secretary SHULTZ. I signed the certification, so the answer is yes. But I made a point in the letter stating that fact of expressing the many reservations that I have, those dealing with some pluses and some minuses. And there are some very real minuses, in my judgment, that we continue to call to their attention forcefully and that we work on in various ways, including the way that I mentioned in my testimony, but not limited to that by any means.

The CHAIRMAN. The fourth certification is the final certification required under present law. Our Ambassador has come in and testified on occasion that the certification process has been a useful goal, it has not accomplished all that we have wanted it to accomplish, but it has been useful, and that the El Salvador Government has accepted it. Each of their Presidents has accepted these as goals that they share with us.

Do you feel that the certification process has been useful to the U.S. Government, and if so what do you think it has accomplished and do you think it should be continued as a process?

Secretary SHULTZ. Well, it may have been useful. On the other hand, it has a downside as well, and it may very well be that it is in the process of outliving its usefulness. The downside is that when you tell a sovereign government that you have to do this, that, and the other thing, you tend to get their backup as well as encourage them to do something.

So you put them in the position where, if they do something that you want them to do and perhaps they want to do, they are caving in to the U.S. pressure, and people do not like to do that. So I think there are definitely two sides to the process as it continues to unfold.

However, I want to say without any ambiguity here that there are many aspects of the human rights situation in El Salvador which I find deplorable, and I subscribe to the statement that I made, that is made totally independently of any certification process at all, that the American people have an attitude, which I agree with, that would tend to draw away from a sort of continued perpetual kind of practice represented by some of the things that go on in El Salvador.

On the other hand, I have to say that there is a great deal to point to that is very encouraging, and I hope that the electoral process can go forward in a strong way. There has been a very considerable improvement over a period of, let us say, 3 years.

So we have a lot to work with and a lot going for us. We should not get discouraged. But that is not to say that there are not some very genuine problems, some of which, like the well-publicized churchwomen case or the Lopez Sibrian matter, which happened to be involving U.S.-related people, we are very concerned about.

I think that we have to be concerned not only about U.S. citizens—as Secretary of State, of course, I am especially concerned and must be: we all are—but also what happens to citizens in El Salvador.

The CHAIRMAN. I did have a visit with people from El Salvador last week who came up here, and I think they gave evidence that there is some progress in some areas, particularly in the quality of forces trained by American advisers.

Secretary SHULTZ. No question about that.

The CHAIRMAN. And that was encouraging.

Secretary SHULTZ. I think some of the current exercises or movements of their forces are showing that, where they are not only clearing the area but are working with the civilian population in a very constructive manner, and it is a most encouraging kind of development.

The CHAIRMAN. Mr. Secretary, I am happy to tell you that I have been advised by the floor of the Senate that all nominations that were approved even up through this morning at 11:30 have been cleared unanimously by the Senate, and Ambassador Pickering and Ambassador Enders were approved.

Secretary SHULTZ. I deeply appreciate that.

The CHAIRMAN. I would like to also say that this is the last meeting that Ed Sanders will attend as a hearing, an official meeting of the Foreign Relations Committee. He has served with distinction for 21½ years as an absolutely outstanding staff director and, I might say, one of the finest men that I have ever worked with in my life in any capacity. And I would ask that we just pay tribute to Ed Sanders for a truly outstanding job. [Applause.]

I would also like to announce that—

Senator DODD. Mr. Chairman.

The CHAIRMAN. Yes, Senator Dodd.

Senator DODD. As the lone Democrat over here—

The CHAIRMAN. Make this bipartisan.

Senator DODD. I want to make it a bipartisan appreciation for his fine work.

The CHAIRMAN. I appreciate that very much, and Senator Pell, were he to be here—he did at the prior reception we gave for Ed Sanders last night eloquently speak on behalf of the Democrats as well, and we appreciate your commenting.

Yes, Secretary Shultz.

Secretary SHULTZ. I would like to say that even the executive branch appreciates Ed Sanders.

The CHAIRMAN. He came from the executive branch, you know.

Secretary SHULTZ. I would like to make another comment, if I could just interject, on another person that has served this committee and helped to encourage the process of consultation, about which we have talked a great deal, and that is Powell Moore. He will be leaving us for what I call greenbacker pastures [laughter] at the end of the congressional session. And I would like to express my admiration for Powell and appreciation for all that he has done.

The CHAIRMAN. Powell, we all join in expressing this, as we have already, directly to you and the President, our deep appreciation for your outstanding service.

I would like to announce that the replacement for Ed Sanders happily will come from within the committee. I strongly support promotions from within if we can do it. We went outside to the executive branch of Government to get Ed Sanders.

In this case we are able to move into the staff director's position Mr. Scott Cohen, who since 1964 has been my principal foreign policy adviser, who prior to that spent 14 years with the executive branch of Government in many parts of the world dealing with foreign policy, and has served this committee as executive assistant to the chairman for the past 2½ years.

I think he brings to this position a sense of fairness, a sense of justice, a deep knowledge of foreign policy, and deep convictions. And he certainly, I am happy to say, lived 10 years also in the State of Illinois. He even knows the kind of problems the chairman is up against once in a while out in the State of Illinois.

We welcome him in this new capacity, and I have been assured by top members of the staff that they will work closely with him. Hans Binnendijk will continue as our deputy director and Fred Tipson as our general counsel.

I want to express my deep gratitude for the loyalty of the entire staff, both minority and majority, and to the way that we have been able to work with the executive branch of Government, particularly the Department of State and the fine colleagues that you have there, Mr. Secretary.

There being no further business, the meeting is adjourned.

[Additional questions and answers follow:]

STATE DEPARTMENT'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY
SENATOR PERCY

Question 1. How many members of the Salvadoran security forces have been convicted on charges of killing civilians for political reasons since October 1979? How many in 1980? How many in 1981? How many in 1982? How many in 1983?

Answer. The Embassy has determined that centralized records are not available concerning members of the Salvadoran security forces who have been tried and convicted for human rights abuses. Therefore, the Embassy selected one department at random and sent an officer there in December 1982 and May 1983 to obtain data on disciplinary action taken against members of the security forces. These visits established that of 17 cases for which information was available during the initial visit, 8 ended in convictions for the crimes of assault, theft, rape and murder. None of these cases, however, involved crimes committed for apparent political motives.

Question 2. How many members of the Salvadoran security forces have been brought to trial on charges of killing civilians for political reasons since October 1979? How many in 1980? How many in 1981? How many in 1982? How many in 1983?

Answer. The Salvadoran Ministry of Defense reported that from January 1 to June 30, 1983 six officers and 139 enlisted men in the armed forces were disciplined for abuse of authority and for a variety of infractions and crimes. In all cases involving common crimes, the accused were discharged from the armed forces and turned over to civilian courts for prosecution. The military does not follow these cases once they have been turned over to civilian courts and therefore is unable to state how many were brought to trial. Moreover, centralized records are not available concerning these cases. Therefore, the Embassy selected one department at random to do a study. An officer visited this department in December 1982 and May 1983. The first visit established that information was available on 17 cases which had been brought to trial. The second visit established that an additional 9 cases were still under investigation or in the trial stage, except for one case under appeal. None of these cases, however, involved crimes committed for apparent political motives.

Question 3. Between October 8 and October 21, 1982, some 17 leaders of labor unions and of the Revolutionary Democratic Front were kidnapped by groups of heavily armed men in civilian clothes. After Ambassador Hinton stated publicly that he was "reasonably certain" that the Government of El Salvador was not involved, some of those abducted showed up in jails and have since been released under an amnesty. Six remain "disappeared." According to a January 14, 1983 letter from the Department of State, the Embassy had no information at that time on the fate of Daniel Avalos de Paz, Pedro Ramirez Esquivel, Pablo Ramirez Cornejo, Julio Roberto Rosales, Raul Palomares and Silvestre Ortis. What information, if any, has the Embassy obtained as to the whereabouts of these six? What information, if any, has the Embassy obtained as to those responsible for the disappearance of these six? What investigation, if any, has the Government of El Salvador carried out about the disappearance of these six? Have the members of the security forces acknowledged to have abducted the other eleven who subsequently turned up alive been interrogated about any role they may have played in the disappearance of the six who are still missing?

Answer. The following information is provided concerning the six individuals named above:

1. *Daniel Avalos de Paz*—According to the Salvadoran Ministry of Defense Avalos de Paz (Paz) was arrested by the National Police on October 10, 1982 and remanded to Mariona Prison on October 25, 1982.

2. *Pedro Ramirez Esquivel*—According to the Ministry of Defense Ramirez was arrested on October 10, 1982 by the National Police and consigned to Mariona Prison on October 25, 1982.

3. *Pablo Ramirez Cornejo*—Pablo Cornejo Ramirez, believed to be the aforementioned person, was in Mariona Prison in February 1983.

4. *Julio Roberto Rosales*—Roberto Alejandro Rosales, believed to be the aforementioned person, was in Mariona Prison in February 1983.

5. *Raul Palomares*—Raul Castro Palomares was arrested by the National Police on October 14, 1982 and consigned to Mariona Prison.

6. *Silvestre Ortis*—Silvestre Ortiz Hernandez was financial secretary of the Salvadoran Sugar Refinery Workers Union. The Ministry of Defense, at the Embassy's request, has conducted an investigation into his disappearance, but to date his whereabouts have not been determined. He remains missing.

The Department has asked the Embassy to ascertain why the five above-mentioned individuals were not released under the amnesty program. This information will be forwarded upon receipt.

Question 4. What investigation has been conducted by the Government of El Salvador about the alleged massacre near Santa Clara that was reported in The Washington Post ("Accounts of Massacre Backed") on September 9, 1982? Have any members of the Salvadoran armed forces been prosecuted as an outgrowth of this incident? Have any been convicted?

Answer. The Embassy made a number of inquiries regarding this report but was unable to obtain any substantiation that this incident took place.

Question 5. What investigation has been conducted by the Government of El Salvador about the torture, mutilation and murder of seven members of the agrarian cooperative at "La Florida" on November 20, 1982? Have any members of the Salvadoran security forces been prosecuted as an outgrowth of this incident? Have any been convicted?

Answer. The Government maintains that it investigated this incident, but it has been unable to prosecute five members of the Civil Defense force who allegedly participated in the killings because witnesses have been afraid to testify. The Government of El Salvador Human Rights Commission has also conducted an investigation into this incident and provided the government with a confidential report. Apart from the five Civil Defense members referred to above, the Government has failed to identify and prosecute other individuals involved in this incident.

Question 6. It has been widely publicized that the official Human Rights Commission investigated the massacre of at least 18 members of an Indian farming cooperative at Las Hojas on February 22, 1983 and delivered a report to President Magana in March. Have any members of the Salvadoran security forces been prosecuted as an outgrowth of this incident? Have any been convicted? What is the current status of any disciplinary actions against the Colonel who commands the garrison at Sonsonate from which the raid against Las Hojas allegedly took place? What is the current status of any disciplinary action against the Captain who allegedly led the raiding force? What is the current status of any disciplinary action against civil defense members who allegedly served as "finger-men" for this massacre? If no prosecutions have been brought, why not? If no disciplinary action has been taken, why not?

Answer. No disciplinary action has been taken against any individual accused of having been involved in the Las Hojas massacre. A civilian judge has been reviewing the evidence concerning the killing of 18 farmers on February 22 at the Las Hojas farm cooperative before determining whether to raise the case to trial.

Question 7. What investigation has the Government of El Salvador conducted into the alleged abduction and disappearance of a member of the private El Salvador Commission on Human Rights, Dr. Roberto Rivera Martelli, on February 23, 1983? What investigation has the Government of El Salvador conducted into the abductions and disappearances previously of Commission members Maria Magdalena Henriquez, Ramon Valladares, Carlos Eduardo Vides and America Fernanda Perdomo? Have there been prosecutions as an outgrowth of investigations of these disappearances?

Answer. We have contacted our Embassy in San Salvador in order to ascertain the status of the Salvadoran Government's investigations in these cases. We will inform the Committee when we have an answer.

Question 8. What is the status of any prosecutions resulting from the murders in 1982 of Mayors and other leaders of the Christian Democratic Party? Have there been any convictions of members of the security forces for these crimes?

Answer. These murders were condemned by a declaration of the Armed Forces, as well as by unanimous vote of the Salvadoran Constituent Assembly. The National Guard made arrests in two of these cases, specifically the murder of the mayor of San Francisco Chinameca and the subsequent murder of the acting mayor and her daughter. The commander and two members of the local civil defense unit were detained, but we are not aware of any convictions in the civil courts resulting from these cases.

Question 9. What investigation has any agency of the United States Government carried out into charges that U.S. supplied A-37 aircraft have been used extensively against the civilian population by the Salvadoran Air Force? What are the results of any such investigation?

Answer. We have heard allegations of the use of A-37 "Dragonfly" against Salvadoran civilian populations, particularly around the time of the intense fighting in Berlin, Usulután Department, earlier this year. In that case, an officer of our Embassy in San Salvador visited the scene and questioned a wide variety of people, including workers of the Red Cross and the Salvadoran Green Cross, and was unable to confirm a single casualty resulting from aerial attacks. He did, however, find widespread confirmation of killings by guerrillas who had taken over the town.

We have heard other allegations of incidents of A-37's attacking civilian populations, but again, we have been unable to confirm them. In fact, a variety of sources, including guerrilla defectors, have repeatedly praised the U.S.-trained A-37 pilots' ability to differentiate military targets from the surrounding populace and pinpoint their attacks on combatants.

Question 10. What investigation has any agency of the United States Government carried out into charges that U.S. supplied white phosphorous has been used by the Salvadoran Air Force in combat or otherwise used as an anti-personnel weapon? What are the results of such investigations?

Answer. The United States has provided some white phosphorous marking grenades, but these are designed to be used solely for marking targets. The

marking grenades are not effective weapons, nor are they even categorized as weapons systems. We have no confirmed reports of the use of white phosphorous as a weapon, either against military targets or against civilians.

Question 11. What investigation has the Embassy carried out into the treatment of persons captured during the past year by the Salvadoran Armed Forces? What are the results of any such investigation?

Answer. The Government of El Salvador has informed the Embassy that there is no centrally directed program for handling captured prisoners and therefore they have been unable to provide the Embassy with any statistics on guerrillas captured. Guerrillas and guerrilla-supporters who have taken advantage of the amnesty by surrendering to military units have generally been well treated by these units until they could be transferred to the custody of the Amnesty Board.

Question 12. In March 1981, the Salvadoran Armed Forces published a "hit list" of "traitors" whom the army promised to "relentlessly persecute." Among those on the list are some of the country's best-known opposition politicians, including Ruben Zamora, Guillermo Ungo, Hector Dada, and Roman Mayorga Cuiros. Has the army retracted this list? What assurances do the individuals on this list have that they would be safe if they participated in the upcoming elections?

Answer. The "hit list" you refer to has never been officially retracted. For that matter, it was never officially promulgated as policy by the Salvadoran Government, and it most certainly has not been adopted by the new government that followed the 1982 election. To the contrary, the Peace Commission has publicly called upon the FDR and the armed left to engage in discussions on participation in presidential elections. One of the issues that would logically arise in any such discussions would be security for the candidates. This problem is not one limited to the left, as the recent guerrilla assassination of an ARENA Constituent Assembly deputy indicates. The fact is, however, that the FDR/FMLN leadership has yet to meet with the Peace Commission to discuss provision of security for candidates.

Question 13. On November 27, 1980, 6 members of the executive committee of the FDR (civilian opposition) were abducted by heavily armed men from the San Jose high school in San Salvador while the building was surrounded by 200 soldiers and police. Their mutilated corpses were later found outside the capital. What, if any, investigation has been made of the army's involvement in the killings? Has anyone been charged or punished for the crime?

Answer. We are unaware of any investigation of this case or of any disciplinary action resulting from it.

El Salvador has progressed in many ways since November 1980, the time to which you refer. The country was only beginning the process that has since led to the election of a Constituent Assembly and the formation of the Peace and Human Rights Commissions. The government is now trying to involve the FDR in the evolving democratic process of the country. By this, we do not mean to imply that the government was responsible for the November 1980 incident, but rather to point out that a democratic process is underway and the FDR has been invited to participate. Problems of extremist terrorism by the right and left continue, as do problems within the judicial system. We make this clear in our certification report. We also note in the report that the level of violence has dropped substantially over the last couple of years.

Question 14. On May 4th, the Salvadoran Assembly issued the amnesty law, and by June 24th, 533 political prisoners had been released. Since that time, about 100 new political prisoners have been taken under the authority of Decree 507. When might we expect Decree 507 to be abolished? Trade unionists linked to the National Federation of Workers and the Electrical Workers Union were among the political prisoners denied amnesty. Why? What protection exists for those political prisoners who have been released?

Answer. A Judicial Reform Study Commission, appointed by President Magana, has submitted a revision of Decree 507 to the President.

Under the amnesty law unanimously passed by the Constituent Assembly, political prisoners detained under Decree 507 were eligible for release if they had been charged with crimes, the penalties for which did not exceed 4 years, and had spent at least 6 months in prison; or had already been sentenced to less than 4 years and had served at least 6 months in prison. These trade unionists were charged with leading a general strike in 1980 which shut off power and resulted in the deaths of some hospital patients. The specific charges against them could result in a sentence of over 4 years in prison. Therefore they were not eligible for release under the amnesty.

Political prisoners who have been released under the amnesty program are assisted to either resettle in El Salvador or to leave the country.

Question 15. Questions regarding the killing of the four U.S. churchwomen:

a. Is it true that a coordinator of the churchwomen's case in the Fiscal General's office, Leonel Romero Cordero, is a law student who was removed from a previous position in that office for accepting a bribe from a defense lawyer in another trial? What is the nature and extent of Romero Cordero's responsibility? Has the U.S. Government expressed concern over his role in this case?

b. Has the thumbprint of the principal defendant in the churchwomen's case, found by the FBI on the victims' burned-out van, been introduced into evidence? If not, why hasn't this evidence been put into an admissible form? Have the Salvadoran authorities duplicated the FBI tests? Have they made efforts to do so?

c. Has the Salvadoran Government questioned Colonel Ricardo Pena Arbaiza, the army commander in the province of Chalatenango where two of the churchwomen worked, who is known to have expressed increasing hostility toward local churchworkers in the months prior to the murders? If not, why not? What has the U.S. Government done to help secure Colonel Pena's testimony?

d. Written death threats, including a letter specifically naming two American nuns who were later killed, were delivered to the Chalatenango church immediately prior to the murders. Has this crucial evidence been thoroughly investigated by the Salvadoran authorities? If not, why not? Have the eight distinct sets of fingerprints found by the FBI on one of these letters been delivered to the Fiscal General? Have the letters and the fingerprints been admitted into evidence? Have the prosecutors made efforts to match these fingerprints with possible suspects? Have such persons been identified or questioned by the prosecutors? If not, why not?

e. Is it true that Salvadoran authorities have refused to pursue the question of superior orders despite the testimony of a former guardsman that the principal defendant explicitly referred to such higher orders immediately before the murders? What steps has the U.S. Government taken to persuade or pressure the prosecutors to investigate this unavoidable issue and prepare for this likely defense?

f. A letter, dated January 5, 1981, naming six Treasury policemen as the churchwomen's killers, was sent by Lt. Col. Francisco Antonio Moran to ex-national guard commander Carlos Eugenio Vides Casanova. What has been done by Salvadoran and U.S. authorities to investigate the authenticity of this letter and its contents, as well as the possible guilt of the named suspects?

Answer. a. The Department takes the allegation that Mr. Cordero was removed from office for taking bribes very seriously and the Embassy in San Salvador is currently investigating the matter. However, this individual is not the only member of the Fiscal General's staff working on the case. There are at least six other individuals in the Fiscal's office, including two senior attorneys, who are working on the case. All of the information thus far available to us is that this law student is not the coordinating attorney, although he is working on it. For example, during the recent testimony of Sergeant Dagoberto Martinez, this individual was present, but asked no questions. The questions were put chiefly by Judge Rauda, and to a lesser extent by another member of the Fiscal's office.

b. This thumbprint has not yet been introduced into evidence. The Fiscal's office is continuing its efforts to do so.

c. Col. Pena Arbaiza is on assignment in Honduras and has not testified in this case. Efforts are underway to have Col. Pena Arbaiza return to El Salvador to give testimony.

d. The fingerprints taken by the FBI have been made available to the Salvadoran authorities. A comparison between the prints found by the FBI and those of National Guard officers that might have ordered the detention of the churchwomen at the airport is not yet complete.

e. In the recent examination of the ex-National Guard Sergeant who was the superior officer of the man charged with the crimes, the witness was asked about the existence of higher orders. He replied that he was unaware of any orders to this effect. It is expected that the Fiscal's office and Judge Rauda will continue to pursue this line of questioning in the further examinations it conducts in the case.

f. Our Embassy in San Salvador has examined the authenticity of this document and has reached the preliminary conclusion that the letter is forged. The Government of El Salvador is conducting its own investigation which we expect will shortly be completed.

Question 16. What evidence, if any, is there that shows that U.S. trained troops are more respectful of human rights in El Salvador than those who have not received such training?

Answer. We do not have hard statistical evidence on the human rights performance of individual units of the Salvadoran Armed Forces. There are no independent observers tracking units and methodically recording such data. We do, however, attempt to track the progress made by those units we have trained by a variety of means. These include visiting, when possible, areas recaptured from the guerrillas and questioning a variety of sources, including social workers and campesinos. The evidence from these sources indicates that the U.S.-trained battalions are more professional in all aspects, including respectful treatment of noncombatants. You have probably noticed reports on the progress of the current National Campaign Plan in El Salvador and of the Army's successful efforts in San Vicente department to reopen schools, medical facilities and campesino agricultural cooperatives. We firmly believe that, with our help, the Salvadoran Armed Forces have made substantial progress not only in their ability to conduct operations against the guerrillas but also in their outlook toward the civilian population around them. We intend to continue fostering this progress.

STATE DEPARTMENT'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY
SENATOR PELL

Question 1. The figures on non-combatant deaths in the first 6 months of the year released by the Archdiocese of San Salvador are startling in terms of the increase from the prior period as well as for the stark difference between the number of deaths attributed to the security and paramilitary forces and that attributed to the guerrillas—2,527 to 43. This seems to support the contention of many, including the Americas Watch, that the civilian authorities do not have real control over the security forces. I would appreciate your comments on this.

Answer. The statistics issued by various human rights monitoring organizations provide only a rough yardstick for measuring the number of deaths attributable to political violence, and we see certain problems with their methodology as indicated in Appendix A.2 of the certification report. The figures cited, for example, assume that all deaths not clearly linked to the guerrillas are committed by forces under the control of the Government of El Salvador. This simply is not the case.

Right wing terrorist activity remains a problem in El Salvador. We have repeatedly stressed to the Salvadorans that all terrorist activity from whatever source must be ended and that those who believe they are beyond the law, whether civilian or military, must be held accountable for their actions. We have noted in the certification that the ability of the government to control fully the actions of the security and armed forces is not yet complete. What we have certified is that the Government of El Salvador is achieving substantial control over all elements of its own armed forces.

Question 2. The lawyers who represent the families of the churchwomen are particularly disturbed by what they call "glaring deficiencies" in the prosecution of the case. They charge that in the past 6 months the prosecutors have done almost nothing, and they list other problems including the failure to consider involvement of higher-ups. How do you respond to their concerns, which by the way reflect the concerns of many Americans including my constituents in Rhode Island?

Answer. The prosecutors have been active during the past 6 months. With the assistance of the FBI, ballistics tests were taken and should now be admissible into the body of evidence against the men accused of murdering the churchwomen. Sergeant Dagoberto Martinez gave a deposition to Salvadoran authorities in which he said that one of the accused had confessed his guilt. And all leads indicating the involvement of higher authority have been pursued, including the purported Moran-Vides Casanova letter.

We share your concerns over the apparently slow progress of this case as well as your interest in seeing that justice is done. In this case, to obtain the latter we have had to accept a sometimes frustratingly deliberate process.

[Whereupon, at 4:41 p.m., the committee adjourned, subject to call of the Chair.]

APPENDIX

THE SECRETARY OF STATE,
Washington, July 20, 1983.

HON. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: The International Security and Development Cooperation Act of 1981, as amended, makes the provision of certain security assistance and the assignment of certain military personnel to El Salvador contingent upon a certification to Congress by the President in accordance with Section 728 of the Act. The President's authority under Section 728 has been delegated to the Secretary of State. I transmitted the third such certification to you on January 21, 1983.

I hereby transmit to you the fourth certification required under Section 728. A report dealing with the matters covered in this certification and providing the justification for the certification is also enclosed. It has been our objective in compiling this report to provide to the Congress a comprehensive and objective analysis of the subjects covered under the certification requirement.

I have concluded that the statutory criteria for certification are met. Nevertheless, it is evident that the record falls short of the broad and sustained progress which both the Congress and the Administration believe is necessary for the evolution of a just and democratic society in El Salvador. I am particularly concerned by the failure of the Government of El Salvador to achieve more positive results in establishing discipline over the security forces and in assuring that those, military or civilian, who commit gross violations of human rights will be brought to justice and held accountable under the law. An especially compelling aspect of this concern for me as Secretary of State is the slow progress made thus far by the Salvadoran authorities in bringing the murderers of United States citizens to justice.

The evolution of democracy is a long and difficult process, especially when there are concerted efforts to defeat it. As we have seen, in El Salvador progress in some key areas has been disturbingly slow. However, our disappointment over the pace of change should not obscure the fact that change is occurring. The people of El Salvador deserve our support in their effort to achieve a truly democratic society, which will provide the best and most lasting safeguard of human rights.

Sincerely yours,

GEORGE P. SHULTZ.

Enclosures: 1. Certification. 2. Report.

DEPARTMENT OF STATE,
Washington, July 20, 1983.

Subject: Certification to Authorize Continued Assistance for El Salvador.

Pursuant to Section 728 (b), (d), and (e) of the International Security and Development Cooperation Act of 1981, as amended, and applicable delegations of authority, I hereby determine and certify:

- (1) That the Government of El Salvador is making a concerted and significant effort to comply with internationally recognized human rights;
- (2) That the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens;
- (3) That the Government of El Salvador is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) That the Government of El Salvador is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict;

(5) That, since the third such certification was made, the Government of El Salvador has made good faith efforts both to investigate the murders of the seven United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice all those responsible for those murders, and has taken all reasonable steps to investigate the killing of Michael Kline in El Salvador in October 1982.

Therefore, to the extent otherwise consistent with law, the furnishing of assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961, the issuance of letters of offer and the extension of credits and guarantees for El Salvador under the Arms Export Control Act, and the assignment of members of the Armed Forces to El Salvador to carry out functions under those Acts are hereby authorized.

This certification together with the justification therefor shall be reported to the Congress immediately.

This certification shall be published in the Federal Register.

GEORGE P. SHULTZ,
Secretary of State.



United States Department of State

Washington, D.C. 20520

REPORT ON THE SITUATION IN EL SALVADOR
WITH RESPECT TO THE SUBJECTS COVERED
IN SECTIONS 728(d) AND (e) OF THE
INTERNATIONAL SECURITY
AND DEVELOPMENT
COOPERATION ACT
OF 1981
AS AMENDED
P.L. 97-113
JULY 20, 1983

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I. EXECUTIVE SUMMARY

El Salvador is in its fourth year under governments committed to achieving basic socio-economic reforms and to building a lasting democratic order. With crucial United States support, this hard-fought democratic process is taking hold and is overcoming the major historical handicaps of rule by non-representative military and economic elites, underdevelopment, and more recently, communist-supported armed insurgency.

Direct presidential elections have been announced for this year, to continue the process begun with last year's election of a Constituent Assembly. The Assembly has become a forum in which competition among political factions occurs in the democratic spirit of compromise and consensus. Significant legislative decisions have been enacted -- for example, the extension of the land reform program and amnesty -- during a time of intense efforts by extremists of the left and the right to undo this progress. The Assembly recently published its draft of a new constitution which provides for enhanced personal liberties and individual security against government abuse and for a clearer separation of powers and increased independence for the judiciary. The economic and political reforms instituted since 1980 have been strengthened and remain in full force.

To broaden the developing democratic process, a Peace Commission was formed with a mandate to bring all factions into the electoral process, an amnesty program authored by the Peace Commission was implemented successfully, and the Peace Commission has made several public appeals to members of the Revolutionary Democratic Front (FDR) and those that have taken up arms against the government to find mutually acceptable ways for them to participate in the democratic process, including this year's presidential elections.

Progress toward ending violence against non-combatants and controlling all elements of the armed forces has been less evident. While the Salvadoran Government is intensifying steps to increase respect for human rights and to reduce human rights abuse, especially among the security and armed forces, its ability to control fully the acts of these institutions is not yet complete. Bitter civil strife and a virtual breakdown in criminal justice contributed in part to the lack of a government program to identify and punish those responsible for those abuses which still occur. In the cases of murdered American citizens, there has been uneven and disappointing progress due in large measure to these same problems. Senior officers are showing greater sensitivity to human rights concerns; the new Minister of Defense has issued to all commanders a comprehensive Human Rights Standard Operating Procedures. El Salvador has now begun, with U.S. assistance, a major reform effort designed to address many of the long-standing problems associated with the judicial system.

II. OVERVIEW

Section 728 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113) establishes a framework for U.S. assistance to El Salvador. This statutory framework is premised on a congressional finding, set out in section 728(a)(1) as follows:

"The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American states generally, that the recent civil strife in El Salvador has caused great human suffering and disruption to the economy of that country, and that substantial assistance to El Salvador is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. Moreover, the Congress recognizes that the efforts of the Government of El Salvador to achieve these goals are affected by the activities of forces beyond its control."

In order to assure that U.S. assistance to El Salvador remains consistent with the foregoing policies, section 728(d) requires certification to the Congress, at 180-day intervals beginning in January 1982, that the Government of El Salvador --

"(1) is making a concerted and significant effort to comply with internationally recognized human rights;

"(2) is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces;

"(3) is making continued progress in implementing essential economic and political reforms, including the land reform program;

"(4) is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to:

"(A) A renouncement of further military or paramilitary activity; and

"(B) The electoral process with internationally recognized observers."

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The July 1983 amendment to section 728(e) of the Act requires a determination in the fourth certification that the Government of El Salvador:

"(1) has made good faith efforts both to investigate the murders of the seven United States citizens in El Salvador in December 1980 and in January 1981, and to bring to justice all those responsible for those murders, and

"(2) has taken all reasonable steps to investigate the killing of Michael Kline in El Salvador in October 1982."

We have also included in this report a discussion of the disappearance of Patricia Cuellar and the murder of LCDR Albert A. Schaufelberger because their cases are of concern both to the Executive Branch and the Congress.

The Government of El Salvador is committed to goals fully compatible with section 728 of the International Security and Development Cooperation Act of 1981. Despite great obstacles, many still beyond its immediate control, the Government of El Salvador is taking steps that address each of the certification criteria.

The Salvadoran Government is working to increase respect for human rights and to reduce abuses by its security forces. It has strengthened institutions, repeatedly and forcefully emphasized the importance of human rights at all levels, and generally followed a democratic, reformist policy. This strategy has produced the overall decline in abuses evident since the certification process was initiated in January 1982.

The Salvadoran Government has failed, however, to accompany this positive effort with a clear program to identify and punish those responsible for abuses that still take place. As a result, those elements of the society which operate outside the legal and stated policy restrictions of the government, including some members of the security forces, generally act without fear of official reprisal.

In recent months the Salvadoran Government has begun reform of its judicial system. This long-term program will seek to upgrade the capacity and independence of the system at the investigatory, prosecutorial, and judicial levels. Adoption of a new constitution, expected within the next few weeks, will be a key step. Revision of Decree 507, the state of siege law, is also expected soon. The U.S. Government will assist reforms in the legal system with financial support, technical assistance and training, both directly and in cooperation with regional institutions.

This effort will take time. Years of neglect and disrespect for the legal system in El Salvador, aggravated by the cruelty of the present civil conflict, make the task a difficult one. But El Salvador already has achieved significant progress in reforming other basic political and economic institutions under the adverse circumstances of the past three years.

President Magana, himself a lawyer, is personally committed to this effort. In a July 1 report on the record of his administration since its formation, President Magana stated:

"Regarding human rights, in the Apaneca Pact we committed ourselves to respect them fully. This is a determination that stems from our fundamental moral convictions and the respect we have for ourselves. As an affirmation of this purpose, on December 2 of last year the Commission for Human Rights was installed. This Commission has promoted the enactment of the amnesty law. In the same way, we are determined to reform our judicial system. To that end, a commission of Salvadoran lawyers has concluded a report recommending guidelines for the reforms. In addition, the draft constitution establishes the independence of the judiciary and of the Office of the Attorney General with authority and powers for a better public administration."

Over 500 prisoners were released under an amnesty program, and the government's Human Rights Commission expanded its activities. However, political violence against civilians and disappearance of civilians remain key problems. Press reports of civilian deaths indicate that such violence is far below the levels of 1981 or early 1982, but rose somewhat in comparison to the immediately preceding six months. Press reports of civilian disappearances have stabilized at the relatively lower but still unacceptable level noted in the last certification. Information compiled by Salvadoran organizations which monitor human rights confirms this downward trend in the level of violence over the past two years.

Achievement of control over all elements of the armed forces has not yet been fully realized, despite government efforts towards that goal. Efforts to increase discipline and professionalism especially in the treatment of non-combatants were complicated by the January 1983 Cabanas mutiny, reassignment of several high-level military officers, and escalation of the civil conflict on both sides. The role President Magana as commander-in-chief played in helping to quell the Cabanas mutiny was important. The new minister of defense has issued extensive oral and written instructions on armed forces behavior toward civilians. Specific instruction on human rights is incorporated in U.S. military training and is provided by the Salvadoran Human Rights Commission. These

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educational efforts, combined with the armed forces' own instructional programs and the growing experience with civic action projects that are demonstrating the benefits of cooperation with the civilian population, will contribute to increased sensitivity within the armed forces and improved respect for human rights.

The most serious failure by the Salvadoran Government to control the security forces has been lack of a clear response to past abuses at La Florida and Santa Elena in late 1982, and most recently at Las Hojas in February 1983. The initiative of the new official Human Rights Commission in pursuing an investigation of the incident at Las Hojas and delivering its findings to President Magana is a positive step. Further investigation is under way, and the government has appointed special prosecutors to handle the case. But concrete disciplinary measures have not yet been taken.

The major economic reforms of 1980 -- redistribution of farmland, nationalization of the banking system, and government control of coffee and sugar marketing -- are progressing. Under Phase III of the land reform, the "Land to the Tiller" program, the high efficiency rate noted in the last certification in awarding land to new claimants has accelerated and protection from illegal eviction has been improved.

Progress in developing democratic institutions is evidenced by the completion of the draft constitution, the preparations for direct presidential elections before the end of the year, repeated invitations to guerrilla-associated parties to participate in the elections, increased activity by political parties and labor unions, improved civilian control over the regular armed forces, and the continued functioning of the Government of National Unity which emerged from the March 1982 elections and the Pact of Apaneca, signed by major party leaders in August 1982. The Constituent Assembly has become a forum in which competition among political factions is conducted in a democratic manner. It also functions effectively as a national legislature. For instance, it extended Phase III of the agrarian reform, enacted the amnesty law, and adopted tax measures to strengthen the economy.

To broaden and add momentum to the developing democratic process in El Salvador, the government has taken concrete steps towards reintegration into the political process of dissident elements, including violent factions of the far left. These steps include:

- formation of a Peace Commission with a mandate to bring all sectors into the electoral process;
- implementation of an amnesty program authored by the Peace Commission; and

-- authorization by the nation's multi-party Political Commission for the Peace Commission to meet with members of the Revolutionary Democratic Front (FDR) to find mutually acceptable ways for them to participate in the democratic process, including specifically the coming presidential elections.

The Peace Commission itself has repeatedly issued a blanket invitation to all dissident political factions to enter into these discussions. This invitation has been repeated by President Magana, most recently in his July 1 State of the Nation address.

The Salvadoran Government is making good faith efforts to bring to justice those responsible for the deaths of U.S. citizens. The prosecution of security force personnel accused of murdering four U.S. citizen churchwomen in December 1980 is continuing, albeit slowly. The Salvadoran Government has informed us that the case is ready to be elevated to trial. There has been no progress in the case against Lt. Lopez Sibrian for involvement in the murder of two American labor consultants in January 1981, but the case against two accused National Guardsmen has been raised to the trial stage. The Salvadoran investigation of the disappearance of John Sullivan, in December 1980, whose body was not recovered until more than eighteen months later, will be assisted by positive identification and medical evidence gathered by a U.S. forensic expert with the cooperation of the Government of El Salvador. Three members of the Salvadoran army are under detention for the murder of Michael Kline, and the case is before the courts. There has been no progress in locating missing U.S. citizen Patricia Cuellar or in resolving her disappearance. The Salvadoran government is pursuing all leads in the murder of LCDR Albert A. Schaufelberger by the Popular Liberation Forces (FPL), a far left guerrilla faction.

III. SPECIFIC ELEMENTS OF CERTIFICATION

A. Human Rights

The Government of El Salvador persisted in its efforts to improve the human rights situation. The Constituent Assembly unanimously passed an amnesty law establishing a program under which over 500 of the approximately 730 prisoners held under Decree 507 were freed. The government's Human Rights Commission became fully operational and expanded its activities. However, violations of human rights, including most importantly the right to life, continued to occur during the past six months. Armed rightist terrorists, including some members of the government's security forces, bear responsibility for many deaths attributable to political violence. The guerrillas also bear responsibility for many violations (as witness their execution of 18 unarmed soldiers and civil defense members on May 8, 1983, and 27 unarmed soldiers on May 25, 1983, in both cases after they had surrendered).

On May 4 the Constituent Assembly unanimously passed an amnesty law drafted by the Peace Commission. (See Appendix A.1. for text.) Under this program, which went into effect May 16, the Government offered amnesty to (1) Salvadorans in armed rebellion against the government, including those in exile; (2) prisoners detained under Decree 507 charged with crimes the penalties for which do not exceed four years and who have spent at least six months in prison; and (3) prisoners already sentenced under Decree 507 whose sentences do not exceed four years. Due to terminate on July 16, the amnesty program was extended until August 15 for those in armed rebellion.

The bill established a three-member Amnesty Board with representatives from the Peace Commission, the Human Rights Commission and the Ministry of the Interior. The Amnesty Board reviews amnesty petitions, issues identification cards to provide legal protection to beneficiaries, and publicizes the amnesty. A military judge is responsible for granting amnesty to those held under Decree 507 and other laws included under the program. An amnesty rehabilitation committee assists beneficiaries in resettling inside the country or abroad.

The Government of El Salvador has officially asked the Intergovernmental Committee for Migration (ICM) to assist in this resettlement activity. Canada and Australia have begun interviewing amnesty beneficiaries seeking to emigrate; the first group departed for Canada June 28. Belgium, Sweden, France and the United States have informed the ICM that they may consider individual applications under the ICM program.

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Out of approximately 730 Decree 507 prisoners in Mariona and Ilopango prisons as of May 15, a total of 535 have been released. This includes all of the FDR/MNR (National Revolutionary Movement) leaders arrested in October 1982 and all of the ANDES (teachers union) members. The willingness of the government to release these prisoners was a demonstration of the government's desire to make this amnesty a success.

It appears that many former political prisoners, especially those with the necessary economic resources, are leaving the country. Only 128 of the former prisoners have officially registered themselves as amnesty beneficiaries, but former prisoners who have not registered are also availing themselves of the Canadian and Australian immigration programs. There is little information on the activities of former prisoners who choose to remain in the country. To date, there have been no substantiated reports that political prisoners released under the amnesty have been physically harmed or rearrested, although a week prior to the day the amnesty program went into effect the bodies of two recently released Decree 507 prisoners were found near Mariona Prison.

Between May 16, when the amnesty started, and July 5, an additional 121 new detainees were remanded to prison under Decree 507. Only detainees who have served six months' imprisonment are eligible for amnesty.

As of mid-July, over 200 former guerrillas, their supporters and camp followers (masas) had turned themselves in and had been processed as amnesty beneficiaries. Members of the Amnesty Board state that 60 to 70 percent of these beneficiaries were active combatants. Individuals are responding to the program in increasing numbers due to the program's gradually increasing credibility and to the stepped up level of military operations against the guerrillas.

The Human Rights Commission established by the Government began operating officially on January 3, 1983. As of June 27 the Commission had received 540 inquiries or complaints. The Commission has no way to obtain information on disappearances carried out by terrorist groups of either the right or the left. But in 92 of these cases the subject of the inquiry was located in the custody of government authorities and was either released or placed in prison.

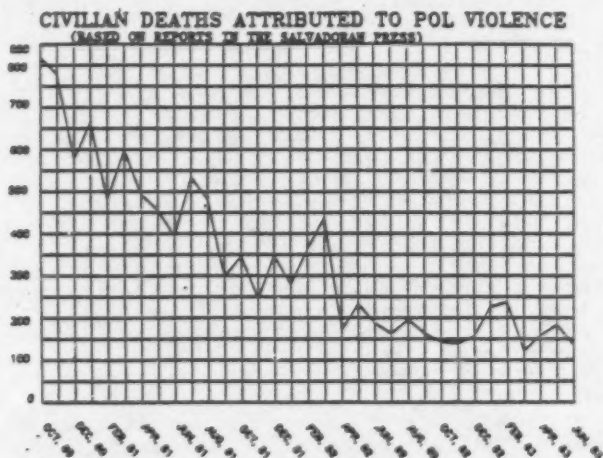
The Commission has established regular lines of communication with the military and the security forces and initiates investigations within 24 hours after receipt of an inquiry. Commission President Monsignor Delgado gives frequent lectures on human rights to military and security force units and to the public. The Commission played an important part in denouncing and then investigating the massacre of 18 farmers at

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the Las Hojas Cooperative in February. The Commission has sent a copy of its investigation report to President Magana.

The Commission is currently hiring additional staff and investigators to work in the field and is opening regional offices in Santa Ana, San Miguel, and San Vicente. This expansion should enhance the Commission's impact. The number of requests for assistance has risen recently in response to a radio and publicity campaign that has created increased public awareness of the Commission's activities.

The number of press-reported civilian deaths attributed to political violence rose since the last certification. The average rose from 160 per month during the last six months of 1982 to 177 per month during the first six months of 1983. This compares to over 300 per month in late 1981 and early 1982. Statistics compiled by private Salvadoran human rights groups show that although their figures are consistently higher than those compiled from press reports the level of violence has continued to decline over the past two years. (See appendices A.2 and 3 for statistics on violence and discussion of methodology.)



Civilian disappearances reported in the press during the first half of 1983 continued at about the same rate as during the last six months of 1982, about 39 per month. Elements of the government security forces are believed to have been involved in or responsible for many of these disappearances. In some cases, the individuals were later found to be in government custody; in other cases, rightist and leftist terrorist groups are believed to have been responsible. (See Appendix A.3.)

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The most prominent recent disappearance case involved two Lutheran church officials, Rev. Medardo Gomez and Dr. Angel Ibarra, who were detained on April 27 and held for 36 hours before being remanded to National Police headquarters. Rev. Gomez was released unharmed. Dr. Ibarra was reportedly tortured before being remanded to Mariona prison and charged with assisting the guerrillas. An American physician chosen by the Mennonite Central Committee examined him on May 6 and determined that, although Dr. Ibarra suffers from a congenital bone disorder, he was not in need of immediate medical assistance. Dr. Ibarra remains under detention and is in satisfactory condition.

The continued violence against non-combatants and the Government of El Salvador's failure to identify and prosecute those responsible, including the perpetrators of the killings that occurred at Santa Elena and La Florida in 1982 and most recently at the Las Hojas farm cooperative in February 1983, demonstrate a need for intensified efforts to achieve compliance with internationally recognized human rights standards and for implementation of a sweeping judicial reform.

In its 1982 human rights report on El Salvador, the Department of State observed that some elements of the security forces use psychological and physical coercion, including torture, to extract information from suspected guerrillas or their supporters. Some prisoners at Mariona and Ilopango prisons have claimed that when captured they were first taken to clandestine detention facilities or police barracks and subjected to electric shocks and beatings in an effort to coerce confessions or extract information. By contrast, conditions at these prisons, where Decree 507 prisoners serve their detention, are good. Regular visits to these facilities by Embassy and Department of State officials as well as by representatives of private human rights organizations and members of Congress confirm that both facilities are clean and well-administered, as measured by commonly accepted prison standards in the U.S. and elsewhere. There have been no allegations from prisoners that they have been subject to inhumane treatment once confined at these facilities.

Constituent Assembly deputies are not immune from political violence. Mauricio Mazier, a Christian Democratic delegate who made a speech on May 4 attacking right wing terrorist groups and the "many abuses of the uniformed services," was threatened by name by a group calling itself the Secret Anti-Communist Army in a "communique" attached to the body of a supposed-guerrilla found in San Salvador on May 6. On June 28, Rene Barrios Amaya, former labor leader and deputy from the ARENA party, was murdered. The Popular Liberation Forces (FPL), a far left guerrilla faction, claimed responsibility the next day. Barrios Amaya was a leading advocate of liberalized labor provisions in the new constitution.

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Judicial Reform.

The Government of El Salvador faces severe constraints in prosecuting crimes because the Salvadoran legal system is in a state of virtual collapse. Convictions in serious criminal cases, in particular those with political overtones of any kind, are virtually unobtainable because of intimidation (usually only implicit) and corruption of judges, lawyers, witnesses and jurors.

El Salvador's codes of criminal law and procedure date from 1972-74 and are comparatively modern, although rules of evidence remain inflexible and outmoded. The fundamental problems, however, are historical and institutional: a traditional lack of faith in legal institutions and chronic lack of attention to the resource and other needs of the legal system. This has been aggravated by the hatreds exacerbated by the present civil conflict, by the willingness of extremists on both sides to resolve disputes by extra-legal means, and by the general climate of violence in El Salvador. In addition, budgetary constraints imposed by the war effort have further reduced the judicial system's effectiveness.

The judicial career in El Salvador, except Supreme Court service, is not prestigious. The court system's small budget allows only part-time operation and forces judges to practice law outside, giving rise to conflicts of interest. The legal system is plagued by the unavailability of basic legal materials and lack of training.

The Fiscal, or Attorney General, lacks budgetary and personnel resources to discharge his duties effectively. Like the courts, the Fiscalia works half-days at low salaries. There are only 30 lawyers on the staff; most of the work is done by approximately 60 law students.

El Salvador has little capacity to conduct sophisticated criminal investigations. The incapacity of police to prepare a cogent case, the Fiscalia to prosecute it effectively, and the courts to remedy investigative defects or produce convictions have contributed to the adoption of extra-legal means of action by elements of the security forces and others.

The dysfunction of the system is demonstrated most acutely in politically sensitive cases, including abuses of authority by members of the security forces, the murders of U.S. citizens, and cases falling under Decree 507. Few cases in the past three years have resulted in a trial, conviction, and sentencing. Even in non-political cases of murder and other serious crimes, the rate of conviction is only approximately 10-20 percent.

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President Magana, himself a lawyer, is strongly committed to legal reforms, as reflected in his State of the Nation speech. He has appointed and shown personal interest in a Judicial Reform Study Commission composed of the Attorney General, the Minister of Justice, the Chief of the Justice Department of the Armed Forces and representatives of the Supreme Court and the Constituent Assembly legislative and constitutional committees. This group has submitted a revision of Decree 507 to the President and is preparing a program of legal reform projects to be conducted by a new, expanded commission which would include members of the private bar and the law faculties.

Several substantive and procedural initiatives to improve the administration of justice are now under way:

- Revisions are contemplated for Decree 507 to spell out in detail the sequence of events following an arrest for crimes subject to military jurisdiction in a state of emergency, such as treason, espionage, membership in a subversive organization, and sedition. The purpose is to eliminate prolonged detention and afford a greater measure of due process.

- A new constitution. This key step is discussed in Section C.4.

- Measures to provide physical protection to participants in the legal process, particularly in sensitive cases.

- Improved investigative and forensic capabilities, possibly including the creation of a new criminal investigations institute.

The United States Government has conveyed to the Government of El Salvador its interest and willingness to help. In his April 14-16 visit to El Salvador, Attorney General Smith stressed the importance of legal reform to U.S. policy. In April an inter-agency team was sent to El Salvador, as well as Honduras and Costa Rica, in order to provide greater insights into problems affecting the administration of justice and to review possible assistance projects. Senator Arlen Specter visited in May, underlining congressional interest in broad reform issues as well as concern about the slow progress in the cases concerning the murder of U.S. citizens and other sensitive cases. During a week-long visit in early June, Deputy Assistant Secretary for Inter-American Affairs James Michel met twice with the Salvadoran Judicial Reform Study Commission.

In Washington, an inter-agency working group is developing bilateral and complementary regional assistance projects to follow up on our support for legal reform. This group is

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developing projects to assist in the infrastructure, training, and management of the Attorney General's office and the court system. Other projects would assist legal education and the availability of legal information. As details of possible programs are developed, funding needs will be assessed as will U.S. statutory limitations, notably section 660 of the Foreign Assistance Act of 1981, as amended, precluding foreign assistance to "law enforcement forces."

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B. Control of the Armed Forces

The Salvadoran armed forces must provide security for the people and the economic infrastructure of the country against guerrilla attacks. To accomplish this two-pronged mission, the regular armed forces have grown from 9,000 in 1979 to 24,000 at present. Additionally, there are approximately 9,000 persons in the security forces. This necessary and rapid expansion has taxed the armed forces' already weak command and control system.

The January 1983 certification reported that the government had just resolved the crisis caused by the rebellion of the garrison commander in Cabanas Department. The general order precipitating the rebellion was modified by presidential authority. Although signed by the Defense Minister, the change was announced by the President and accepted by both the military and civilian sectors of the country. These events served to strengthen civilian control of the military institution. However, the mutiny itself and the subsequent high level transfers temporarily disrupted the armed forces' effort to achieve control over its various elements.

The guerrillas began an offensive starting last October which continued through January. Inhibiting the armed forces' ability to counter the offensive was concern over the continued level of U.S. military assistance, which at that point was only one-third the level of that received the previous year. Except for a major operation in war-torn Morazan Department during January, the armed forces tended to husband on-hand supplies, allowing the initiative to fall to the guerrillas. The capstone of the guerrilla offensive was the sacking of the city of Berlin on January 29, coinciding with congressional debate on the last certification.

Increased civil-military cooperation is evident in the government's National Combined Campaign Plan, which initially will concentrate on the agriculturally important departments of San Vicente and Usulután. Violence is not endemic to all regions of El Salvador, and the Campaign Plan is focussed on two departments where guerrilla activity is widespread. The plan has two phases -- first, to clear the guerrillas from the operational area and establish popularly-based civil defense units to prevent the guerrillas from returning after regular army units leave; second, and more importantly, to institute civic action projects that address the endemic social, political, and economic problems which are both exacerbated and exploited by the guerrillas. This second phase is under the overall control of the National Commission of Reconstruction (CONARA) of the Ministry of Planning.

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CONARA is charged with coordinating the civilian aspects of the plan, including implementation of labor-intensive public works, restoration of basic services, and expanding the agrarian reform, which has been least successful in areas of high guerrilla activity. In the current San Vicente campaign, CONARA has administered the distribution of 86,000 pounds of food to over 10,000 people. Twenty schools have been reopened by the Ministry of Education. Eight road projects are under way, and two city halls destroyed by the guerrillas are being rebuilt. The Ministry of Health has vaccinated 1200 people, refurbished seven health centers, and opened one new one. The armed forces are participating in these projects and through this effort are learning that a positive relationship with the civilian population benefits both the military and the civilians.

In May, shortly after assuming his post of defense minister, Brigadier General Carlos Eugenio Vides Casanova directed the preparation and circulation to all commanders of human rights standard operating procedures. The 31-page document covers such subjects as the prudent use of force, respect for the civilian population and property, correct treatment of prisoners, investigations of human rights violations, and cooperation with the International Committee of the Red Cross. (See Appendix B.1 for synopsis.) In the cover letter to this document the new Minister said that soldiers are not just to protect, but to promote human rights. He added that only by changing and improving attitudes will the armed forces help themselves in the struggle against Marxist-Leninist aggression. He emphasized that violations of human rights will be investigated and that violators will be punished. He has emphasized the importance he places on this document in visits to various headquarters and units.

In addition to the printed guidelines, in all operations the high command now routinely includes orders on how the unit is to conduct itself with the civilian population and the procedures for handling captured guerrillas and defectors.

The armed forces, in general, are becoming more sensitive to the treatment of both civilians and prisoners. Several departmental and unit commanders, most notably those of the three immediate reaction battalions which carry the bulk of the fighting, have initiated civic action programs intended to generate or solidify civilian support for their forces. The immediate reaction battalions, for example, regularly provide limited medical care to the rural population wherever they operate. The Atlacatl Battalion has significantly improved its relationship with the civilian population while operating in Morazan Department over the past two months.

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In the past, the army has been severely constrained in its efforts to exert control and discipline by a lack of junior officers at the company and platoon level, a direct result of rapid expansion. The Salvadoran Military Academy previously graduated about 15-20 new lieutenants per year, a sufficient number for a small military that was not confronting a sophisticated, well-supported guerrilla movement. To address this shortage, the U.S. trained, at Salvadoran request, 477 officer candidates in the U.S. in 1982. These cadet officers have acquitted themselves extremely well since returning to El Salvador. The shortage continues, however, and an additional 487 cadets now are attending similar courses at Ft. Benning.

The program of instruction at Ft. Benning, although similar to officer candidate training for U.S. personnel, is specifically geared to conditions in El Salvador. Formal lectures in human rights and the importance of gaining the support of the people are reinforced by practical exercises. In simulated field exercises, Spanish-speaking personnel role-play as Salvadoran peasants, and the cadets are required to react to changing situations designed to test and increase their sensitivity to proper treatment of non-combatants and captured guerrillas.

A basic tenet of all U.S. military instruction to Salvadoran units and individuals is that a counterinsurgency can be successfully conducted when government forces are able to deny the guerrillas the support of the population. An integral part of this training is that respect for individual human rights is essential in gaining the willing support of the people.

Only about 10 percent of presently active armed forces personnel have received U.S. training. This problem is aggravated by the attrition of those who have been trained. The introduction of a higher pay scale for reenlistees is helping to address this problem. Since the program was initiated on March 1, over 2000 soldiers have reenlisted. The Regional Military Training Center (RMTC) recently established by Honduras will also help. The RMTC will initially permit the U.S. to train a fourth 1000-man quick reaction battalion and four 350-man cazador ("hunter") battalions. After completing training, these troops will return to El Salvador to provide security during this year's presidential elections. Through formal instruction and field exercises, the training program will emphasize that respect for the rights of non-combatants is necessary for defeating the guerrillas. This U.S. training is a vital component of effective promotion of the objectives of the certification process.

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Although the High Command is mindful of the need to curtail excesses by its troops, abuses occurred during the last six months. There are also credible reports of the involvement of some members of the security forces in right wing paramilitary activity.

The most serious incident was at the Las Hojas farm cooperative, Sonsonate Department, where 18 farmers were slain on February 22, apparently by elements of a Salvadoran unit. In concert with the official Human Rights Commission, the High Command initiated an investigation. The case is now before a civilian judge, who is reviewing the evidence before determining whether to raise the case to trial (plenario). The Government has appointed special prosecutors to handle the case. Although the commander of the unit involved was initially placed under house arrest, he has since been returned to active service.

The Salvadoran Ministry of Defense reports that since the beginning of the year, six officers and 139 enlisted men in the armed forces have been disciplined for abuse of authority and for a variety of infractions and crimes. In all cases involving common crimes, the accused were discharged from the armed forces and turned over to civilian courts for prosecution. The military does not follow these cases once they are out of their jurisdiction. The accused are tried in local courts, and there is no centralized record of their disposition. Because cases of abuse of authority turned over to the civilian judicial system have often resulted in dismissal without trial, the Ministry of Defense supports the judicial reform initiative discussed in Section III.A, an effort interrelated with the armed forces' own efforts to achieve greater control and discipline.

Because of the difficulty in obtaining statistics, an Embassy officer visited San Miguel Department twice since December 1982 in order to obtain data on security and armed forces personnel who have been disciplined in civilian courts. During the initial visit in December 1982, the officer obtained information on 17 cases involving civil defense, military and police personnel who had been charged with serious offenses ranging from theft to murder during the previous six months. While most cases were still being processed at the time, five cases had ended in convictions for the crimes of assault, theft, rape, and murder. By May of this year an additional three of the 17 defendants had been convicted of assault and murder. Nine new cases had been brought against army or national police personnel for charges ranging from assault to rape to murder. All these cases were either still under investigation or in the trial stage except for one case under appeal. None of these cases, however, involved crimes committed for apparent political motives.

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C. Economic and Political Reforms

In his July 1 report to the Constituent Assembly on the progress of his administration during its first fourteen months in office, President Magana stated:

"The reforms must not be evaluated only in terms of economic efficiency alone, but also in terms of social participation which, by decreasing the seriousness of the (social) conflict, will avoid the tensions exploited to create a climate of violence."

1. Agrarian Reform

El Salvador's agrarian reform -- one of the most comprehensive ever attempted in Latin America -- remains on track and is moving forward. The titling process has accelerated, and protection against illegal evictions has been increased. Agricultural production is being maintained; training, extension, and credit services are being furnished to new owner-operators; and the government is making determined efforts to deal with the problems affecting the program and its implementation.

Lack of access to land coupled with high population density has been a major source of unrest in El Salvador for the past several decades. Ownership of land was highly skewed. Before the country's agrarian reform program began in 1980, 40 percent of all farmland was held by only 0.2 percent of the population.

Over the past three years, much has been accomplished through agrarian reform despite efforts of extremists on both the left and the right to obstruct the program. The agrarian reform program is divided into three phases, two of which are active. Under the program's two active phases, landless farm laborers and tenant farmers are purchasing the land they tilled through government-backed mortgages, with payment being made to former owners by the Salvadoran government. More than 20 percent of the country's farmland has now been redistributed. As of the end of June 1983, some 83,183 farmers had received land through the agrarian reform program. Including their families, more than 500,000 people -- some 18 percent of the rural population -- are now benefitting from the reform. (See Appendix C.1 for statistics relating to the agrarian reform.)

Under Phase I, cumulative holdings of 1,235 acres or larger (500 hectares) and some smaller properties voluntarily offered for sale have been taken by the government and turned into cooperatives of former workers and tenants. About 15 percent of the country's farmland has been affected by Phase I. Some 317 cooperatives have been formed, and most are beginning their fourth year of operation. These cooperatives have 32,317

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members, or about 194,000 people when family members are included. However, 42 cooperatives located in areas with strong guerrilla concentrations no longer function or operate only sporadically. As part of the current combined campaign in San Vicente and Usulután, 29 of these cooperatives will be reactivated.

Productivity, measured in terms of yield, on Phase I agrarian reform cooperatives is comparable or superior in the case of some commodities to that of properties unaffected by the reform. Current production estimates indicate that Phase I cooperatives are approaching levels comparable to average recorded yields for the five-year period prior to the reform's initiation. Estimates of the harvest just completed indicate that the Phase I cooperatives, with 15 percent of the country's farmland, accounted for 28 percent of export crops and six percent of the basic grains produced.

The credit and technical assistance extended to Phase I cooperatives on a priority basis have enabled them to maintain area planted, total production, and yields, under difficult growing conditions. Despite the serious financial constraints, the Salvadoran Government budgeted 118 million colones (\$47.2 million) for its agricultural research, training, and extension program during FY-1983, of which the cooperatives and Phase III farms have been primary beneficiaries. Production and investment credit for agrarian reform beneficiaries has also been a priority for the Government.

Since the last certification, the Salvadoran government agency responsible for the implementation of Phase I has inaugurated a program to strengthen the managerial capacity of the agrarian reform cooperatives. To date 14 cooperatives have benefitted. The program is bringing managers and accountants to the cooperatives to explain the technical support services available, describe the continued role of the government as it relates to the cooperative, and discuss the procedures for the managerial accounting system. The goal is to select, orient, and place managers and accountants hired by the cooperatives on approximately 280 cooperatives, and to install uniform management and accounting systems on some 342 cooperatives by the end of 1984.

Under the decree establishing the agrarian reform, definitive title for Phase I and Phase III properties cannot be issued until final compensation is paid to former owners. Funding for compensation would be a problem under the best of circumstances. In a country where real GDP has declined 25 percent in three years, due in large part to the economic sabotage of the guerrillas, compensation payments are an especially heavy burden and have been delayed. Also, payments have not yet begun on some properties where there is dispute

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over compensation issues. Under section 620(g) of the Foreign Assistance Act of 1961, as amended, U.S. assistance cannot be used for the purpose of compensation.

The government recently substantially improved the payment rate to former owners of Phase I land. Payment was in the form of long-term interest bearing bonds for land, and a mix of cash and short-term bonds for livestock, machinery, and equipment. In the past six months, payments to 13 former owners totalled \$518,306 in cash and \$14,712,680 in bonds. The government also took steps to make the bonds a more attractive instrument of payment. All interest payments on bonds have been brought up to date. For most bond holders, these payments were the first they had received and were up to three years overdue. Interest coupons can be used to pay some taxes and are therefore traded at a discount on a secondary market. The government is studying ways in which the bonds could be traded in exchange for shares in businesses now publicly owned.

Phase II of the reform was planned to encompass properties between 247 and 1,235 acres (100-500 hectares), but has been postponed indefinitely for lack of money, personnel, and organizational resources. In the meantime land sales remain frozen, and uncertainty over the timing of Phase II has substantially curtailed investment in these farms.

Phase III allows former renters and sharecroppers to buy the land they worked as of May 7, 1980, up to a maximum of 17 acres (7 hectares). In practice, the applications average about four acres per farmer. Based on a Salvadoran government study, 117,000 farmers are eligible for land under the terms of Phase III. Progress on Phase III of the agrarian reform has been substantial during this reporting period.

During the past six months, there were significant increases in every indicator of progress in Phase III of the agrarian reform. Over 2,000 definitive titles were delivered this period compared to only 157 last period. The number of property owners compensated now stands at 271, an increase of 135 in 1983. As of June, 1983, some 50,866 persons had filed petitions for land, or 43 percent of those estimated to be eligible by the Government of El Salvador. Including family members, more than 300,000 Salvadorans are now moving under Phase III toward ownership of the land they work.

An extensive mobile campaign to increase the number of beneficiaries was completed on February 28, 1983, just prior to the expected expiration date of Decree 207. The campaign brought 21,537 new applications. As expected, the monthly rate of new applications dropped considerably after the campaign, but a new mobile campaign is scheduled to begin this month.

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In addition to promoting applications for land, the new campaign will also work to speed up the entire process, from application to definitive title. The campaign will recruit new beneficiaries, collect proof of eligibility, and prepare field inspections and financial plans with the goal of speeding up the compensation and titling process. Some 500 new employees will be hired for the campaign, and support has been promised by farmer organizations.

In March, Decree 171 extended until December 31, 1983 the benefits of Decree 207. It also gave departmental governors the right to establish fines of 500-10,000 colones (\$200-\$4000) for property owners illegally evicting a beneficiary. In extending Phase III, Decree 171 also clarified the definition of those who could claim benefits under the program.

As expected, illegal evictions occurred during planting season, but apparently not nearly so many as during the same period last year. An intensive government media campaign and reinstallation of evicted farmers with support from the armed forces arrested the problem. According to Salvadoran government figures, there are still 995 beneficiaries presently evicted, but reinstallations are continuing. Some 692 evictions are in the east, however, where reinstallation is more difficult due to guerrilla activity. There also may be some evicted beneficiaries who have not reported their status. A study now being conducted by the Ministry of Agriculture should give a better indication of the scope of the problem.

The Salvadoran Government has established a system to adjudicate disputed claims for land under Phase III. Disputes are first heard at the departmental office of FINATA, the Salvadoran agency which manages Phase III. Cases decided in favor of the landowner are reviewed by the president of FINATA in hearings at which both sides are present. As of April 30, oppositions have been filed by landowners in 1,222 cases and decisions rendered in 322. Of these cases, 213 were resolved in favor of the landowner and 109 in favor of the beneficiary. Of 88 reviews made by the president of FINATA, 25 were resolved in favor of the landowner and 28 in favor of the beneficiary; the others were still pending.

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2. Marketing Reforms

Early in 1980, the Salvadoran government nationalized the marketing of two of the three major export crops -- coffee and sugar. The government formed two state-owned companies, INCAFE and INAZUCAR, to promote the marketing of coffee and sugar abroad and domestically, to administer El Salvador's obligations under international commodity agreements, to purchase the raw production from the farmers, and in some cases to manage crop processing.

Coffee growers continue to seek to regain control of the export market, arguing that government control has led to inefficiency, low producer prices, and low export volume. While a large part of these ills derive from a weak international coffee market, there also appears to have been a rupture in long established commercial relations which has resulted in a loss of quality premiums formerly earned by private exporters. Supporters of nationalized marketing argue that a continued government role in the export of this critical resource is needed to control critically short foreign exchange earnings.

Relations between INAZUCAR and the sugar growers appear to be good. There is little serious movement at present to return control over nationalized mills or marketing to private hands.

3. Financial Reforms

On March 7, 1980, El Salvador's domestic commercial banks and saving and loans associations were nationalized. The bank nationalization law provided for the monetary authorities to take over the management and control of the nationalized institutions, carry out financial audits to determine their net worth, compensate the former stock-owners, and return to the private sector 49 percent of the total shares of the banks.

Prior to the 1980 reforms, ownership of the banks was concentrated in the hands of a small group of individuals and families, almost invariably identical with the families who owned the large farms. Allocation of credit was largely restricted to the landowners with large holdings. Thus, nationalization of the banks was believed necessary not only to further democratize the economy, but also to permit agrarian reform to succeed.

Former bank owners have to date received 152 million colones (\$60.8 million) in compensation in the form of five-year bonds bearing nine percent interest. All interest and amortization payments on these bonds are now current. The final audit determined the net worth of the nationalized banks and saving and loans associations to be 232.8 million colones (\$93.1 million).

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The Central Bank announced the sale of bank shares to the public on March 17, 1983. The monetary board established the price of the shares according to the book value of the institutions as of December 31, 1982. The Central Bank offered to sell 20 percent of the shares to the employees of the banks and savings and loans associations, and 29 percent to the general public, with preference given to the previous owners. But no one can hold shares of more than one financial institution nor own more than one percent of the shares of a single bank.

The public has not responded as enthusiastically as originally expected, with the result that funds the government had hoped to use to finance payment of the bonds have not materialized.

Nationalization did not significantly alter commercial operations. The two foreign banks, whose charter extensions until December 1985 were reported in the last certification report, continue to operate in El Salvador.

4. Political Reforms

Following the March 1982 elections, the Christian Democrat-Armed Forces junta dissolved and peacefully transferred its authority to a provisional executive body, named by the newly elected Constituent Assembly.

The government is composed of members of the major parties that participated in the elections, including political independents. The president, Alvaro Magana, is a political independent, selected as a consensus candidate after no single party received a majority of seats in the Constituent Assembly. There are also three vice-presidents, each representing one of the three major democratic parties contesting the election, the Christian Democratic Party (PDC), the National Republican Alliance (ARENA), and the Party of National Reconciliation (PCN).

The Constituent Assembly is charged with writing a new national constitution and acting as a legislative body until a new one can be elected under the new constitution. It is composed of sixty seats: twenty-four representatives from the PDC, nineteen from the ARENA, ten from the recently-formed Salvadoran Authentic Institutional Party (PAISA), four from the PCN, two from the Democratic Action Party (AD), and one from the Salvadoran Popular Party (PPS). Political parties representing interests that previously tended to express their opposition through violence are now competing in a democratic form in the Assembly. Political debate is often divisive, but the parties have shown themselves capable of reaching important compromises.

During the past six months, El Salvador made clear progress in strengthening democratic institutions. Despite problems, the process of political reform continued. The process was and continues to be characterized by consistent movement toward the creation of a democratic state ruled by law. This year another important milestone should be reached -- direct election of a constitutional president.

The government's amnesty program, designed to motivate dissident elements to reintegrate peacefully into Salvadoran society, was discussed above. An important part of this effort is the goal of broadening the developing political process to include the full range of national political thought. The Peace Commission has issued an open invitation to far left parties to participate in elections and is willing to meet with them to find ways to facilitate their participation, for instance, to ensure their security and access to the media. The Salvadoran government recognizes that a pluralistic, democratic system will require active opposition parties, with a fair chance to gain power through institutional means.

This report also discusses in detail (Section D) the direct presidential elections announced for this year. The elections themselves are important, but the political activity already under way by the parties to gain support, to debate platforms, and to select candidates is also a healthy sign of an emerging, dynamic political process.

The first draft of a new constitution is now being published in Salvadoran newspapers, so that constituents can communicate their views to their representatives in the Constituent Assembly. Formal debate of the draft is scheduled to begin soon in the full assembly. The drafting process has had the added salutary effect of forcing an organized public discussion of major issues in the country.

The draft constitution strengthens the rights of private citizens. Presumption of innocence until proven guilty is codified in the constitution for the first time. Safeguards against excessive provisional detention and search of the home without a warrant have been expanded. Workers made some important gains, including no-fault severance pay, the right to strike without previous approval by the Labor Ministry, and social security coverage for rural workers and domestic servants. Politically, the draft constitution would establish a pluralistic form of government, and specifically notes that the existence of an official party is incompatible with such a system. Measures have been taken to strengthen the judiciary. For example, the executive is obligated to incorporate the Supreme Court's proposed budget into the government's general budget without change, and the attorney general will be appointed by the legislature, rather than the executive. The constitution also delegates new investigative powers to the attorney general and provides for enhanced judicial review of legislation.

In addition to its responsibilities for drafting the constitution, the Constituent Assembly also functions as a national legislature. As such, it has taken difficult decisions on extension of land reform, the amnesty program, and a series of economic austerity measures, such as tax increases, designed to strengthen the Salvadoran economy. Most importantly, the assembly has become El Salvador's primary organ for political decision and debate.

The Constituent Assembly has also provided an effective forum in which interest groups, such as the labor movement, can lobby in pursuit of their interests. Campesino pressure, culminating in a demonstration several thousand strong led by the Popular Democratic Unity umbrella labor organization, aided the successful effort to extend Decree 207, the basis for Phase III of the agrarian reform. In addition, labor representatives are working with private sector and government representatives

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in a tripartite commission to draft a new labor code based on the new constitution. Organized labor is also actively cooperating with the government to assist beneficiaries of Phase III of the land reform and is directly assisting many Phase I cooperatives with advice and other support.

Although not a reform in the sense of a new law or the creation of a new institution, the change of defense ministers on April 18, 1983, is an indication of the growing cooperation among segments within the democratic political system as well as of increasing recognition of the authority of the country's civilian leadership. This orderly transition, together with the role of President Magana, who announced the order ending the Cabanas mutiny in January 1983 (see Section B), indicates movement toward civilian control over the armed forces. This is an important element in the development of democracy in El Salvador and in the reversal of the 50-year dominance of the military over the political life of the country.

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D. Political Solution

On February 23, President Magana announced that the Political Commission had agreed upon the creation of the third of the commissions envisioned in the Pact of Apaneca, the Peace Commission. At the same time, the Political Commission issued a Plan for National Reconciliation based on amnesty, promotion of "adequate social and political conditions," and "encouraging all political and social sectors to join in the political process." (See Section III.A for discussion of amnesty program and Appendix D.1 for text of the plan for reconciliation.)

During the visit of the Pope to El Salvador in March, President Magana announced that presidential elections would be held before year end, earlier than the March 1984 schedule announced last year.

The coming elections will provide for the election of a president and vice president by direct popular vote. This is another major step beyond the March 1982 elections in which only the Constituent Assembly was directly elected. It then named the interim president and vice presidents and approved the Cabinet of Ministers.

A number of questions remain to be resolved regarding the precise date and levels of government to be contested in the elections; there are also technical and logistical problems. The draft constitution addresses some of these questions while the Central Elections Council (CEC) is tasked with resolving the others, including writing a new electoral code. At this point it is probable that if no presidential candidate wins an absolute majority, the winner will be chosen in a runoff between the two leading candidates.

On May 30, the Peace Commission issued a statement to "all Salvadorans, including the members of the FDR" to work for national reconciliation. On June 6, Peace Commission President Francisco Quinonez offered to join in a "dialogue with FDR and FMLN leaders about their participation in the next elections." In a June 11 press conference, Quinonez repeated the Peace Commission's invitation to all Salvadorans to seek, by all available means, the opportunity to live in peace. He went on to say:

"...in particular, we reiterate our position [of] inviting the FDR, if it is disposed and interested in participating in the democratic process....to make this [desire] known. As you all know, the Peace Commission last month made an official declaration with regard to this invitation.[O]n June 3...the Commission reiterated this invitation and clearly directed itself to the FDR, with the express objective of demonstrating the political decision of the

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Peace Commission, backed by the the Pact of Apaneca and its Political Commission, to carry out conversations with the objective of including or taking the FDR into consideration in the democratic process, and I repeat, specifically in the upcoming electoral event."

On July 12 the Peace Commission repeated the invitation and expressed its regret at the FDR's apparent unwillingness to enter into dialogue.

In his July 1 report to the Constituent Assembly, President Magana stated:

"...any negotiation to distribute power would run contrary to the mandate of the voters, who were the large majority of the Salvadoran people. This is the only thing, definitely the only thing, which my government cannot do for peace."

E. Investigations of the Murders and Disappearance of American Citizens¹

1. Churchwomen

Since the January certification, the case against the National Guardsmen for the December 1981 murder of four U.S. citizen churchwomen has continued to wend its way through the Salvadoran judicial system. The guardsmen remain in detention.

At the end of the last certification period, the Salvadoran investigating judge had just elevated the case against the five ex-national guardsmen to the plenario or final stage of the trial. The defense attorneys for the guardsmen promptly appealed the judge's ruling. On March 11 an appellate court confirmed that the judge had properly elevated the case to the plenario with respect to the murder charges, but returned the case to him for further clarification concerning certain ancillary crimes such as theft. (Under Salvadoran law, a defendant must be tried simultaneously for all crimes committed during a criminal act.) This remand also created the opportunity to admit into the record certain evidence analyzed by the FBI, such as ballistics tests, that had not been previously admissible because of the requirement of Salvadoran law that all such tests be conducted in El Salvador. With the help of an FBI ballistics expert, the National Police have now confirmed earlier evidence linking one of the defendants directly to the crime. The National Police were also able to link a second defendant directly to the crime through examination of a rifle not available to the FBI during its initial tests. This evidence is legally admissible in Salvadoran courts and considerably strengthens the case against the defendants.

We are hopeful that the case will go to trial within the next few weeks. Realistically, the defense attorneys will avail themselves of every benefit available under Salvadoran law and practice, and further delays cannot be ruled out. Given the opportunities for delay afforded defense counsel under the Salvadoran system, in particular liberal interlocutory appeals, this case has moved toward trial at a sustained, if slow, pace. The Government of El Salvador appears to have made a conscientious effort to prosecute these murders, and the criminal law and procedure of El Salvador are being respected and applied.

¹We have included the disappearance of Patricia Cuellar and the murder of LCDR Albert A. Schaufelberger because their cases are of concern both to the Executive Branch and to the Congress.

In response to Congressional suggestions, the Secretary of State invited Judge Harold G. Tyler, former Deputy Attorney General, to conduct a review of all materials available to the United States Government concerning this case and to recommend any further actions that the United States Government might take to be helpful in these prosecutions.

2. The American Institute for Free Labor Development (AIFLD) Consultants

The Salvadoran attorney general is continuing to pursue the prosecution of the murders of Michael Hammer and Mark Pearlman, but it has been stymied by adverse rulings by the Salvadoran courts. On April 29, the appellate court in San Vicente denied the attorney general's appeal of the investigating judge's decision not to bring charges against Lt. Rodolfo Lopez Sibrian and to dismiss the charges against Ricardo Sol Meza and Hans Christ. Unless overturned by the Supreme Court, this decision closes judicial proceedings against Sol Meza, Christ, and Lopez Sibrian. Depending on the outcome of the Supreme Court review of the Lopez Sibrian case, the Salvadoran attorney general may have the opportunity to challenge the lower court ruling in that case if new evidence is introduced by April 1984.

Though charges were dismissed against Hans Christ for lack of evidence, a number of questions remain unanswered concerning the extent of his involvement in the murders.

The dismissal of charges against Lopez Sibrian, as well as the others, was a major setback, particularly because of the substantial body of evidence indicating that Lopez Sibrian ordered two guardsmen to commit the murders. Given the substance of the available information, we believe that the extent of the alleged participation of Lopez Sibrian and Christ in the murders should be determined by a full trial on the merits. In an effort to reverse the appellate court decision, the attorney general has appealed that decision to the Supreme Court. The grounds for obtaining Supreme Court review, however, are narrow and procedural in nature and generally do not go to the merits of the case. We expect the Supreme Court to reach a decision soon.

In a companion case, the appellate court affirmed the lower court decision to commence full trial proceedings against the two confessed guardsmen who were directly responsible for carrying out the murders. As of this writing, the Department has not been advised of a trial date for those two defendants.

In spite of threats, intimidation, and adverse judicial rulings that have hampered prosecution of the AIFLD murder case, the Salvadoran executive branch continues to make a good faith effort to bring to justice those responsible.

3. John Sullivan

On February 25, 1983, the Sullivan family announced that the body of John J. Sullivan, Jr., which had been located in El Salvador and brought to the United States, had been positively identified. Mr. Sullivan was apparently killed during the night of December 28/29, 1980. His body, which had been mutilated to the extent that identification was impossible by normal means, was found near Nuevo Cuscatlan, El Salvador, on the morning of December 29, 1980, and buried the following day. In June 1982, an anonymous note directed the American Embassy's attention to the burial of the then-as-yet unidentified remains. The body was first exhumed in July 1982 and examined by a Salvadoran medical examiner, who reported that the body was not that of Mr. Sullivan. However, subsequent review of x-rays of the remains called into question the accuracy of the Salvadoran examiner's findings. The remains were re-exhumed with the full cooperation of the Salvadoran Government and brought to the United States for further examination in February 1983, when identification was made.

Despite the identification of Mr. Sullivan's remains, very little progress has been made toward learning the identity of his killers. The American medical examiner was unable to determine the exact cause of Mr. Sullivan's death, nor was he able to find any forensic evidence that might assist in tracking down the killers. The author of the anonymous note directing the Embassy to Sullivan's grave turned out to be a person who, passing through Nuevo Cuscatlan, had heard local gossip which he reported to the Embassy. He could add nothing further. The medical examiner's report has been forwarded to the appropriate Salvadoran authorities and will provide the formal legal basis for the continuing investigation into Mr. Sullivan's death.

4. Michael Kline

Since the last certification, the Salvadoran military has completed its investigation of the October 13, 1982, shooting of an American traveler, Michael Kline, by Salvadoran soldiers. Mr. Kline was traveling through El Salvador by public bus en route to Costa Rica when the bus was stopped at a checkpoint by Salvadoran soldiers. The soldiers apparently decided Mr. Kline was acting suspiciously and that they would take him to their headquarters at San Francisco Gotera. Mr. Kline was killed by the soldiers on the way. Although the soldiers originally stated that they shot Mr. Kline at a distance while he was attempting to escape, an autopsy indicated that the shots were fired from close range. An investigation of the incident was then begun by the military.

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On March 11, the Salvadoran Minister of Defense announced that the three soldiers present at the shooting had been detained and would be turned over to civilian courts. The three soldiers are in prison while the judge of first instance in San Francisco Gotera conducts his own investigation of the killing.

5. Patricia Cuellar

The disappearance of dual Salvadoran-American citizen, Patricia Cuellar, remains unsolved. Ms. Cuellar disappeared from her residence in San Salvador on July 18, 1982. Within 24 hours, her father, a Salvadoran citizen who was executive director of a major businessmen's association, and his maid also disappeared. Upon learning of Ms. Cuellar's disappearance, the Embassy immediately sought the assistance of senior Salvadoran officials in attempting to locate these individuals. President Magana and then Defense Minister Garcia assured the Embassy that the agencies and personnel of the Government of El Salvador, including the armed forces, were not involved in the abductions. An eyewitness who was interviewed by the National Police and polygraphed by the FBI was unable to offer any new evidence. Salvadoran government investigators are continuing their investigation of this case.

6. Lieutenant Commander Albert A. Schaufelberger

On May 25, 1983, Lieutenant Commander Albert A. Schaufelberger, U.S. Navy, Deputy Commander of the U.S. Military Assistance Group in El Salvador, was shot and killed in a parked car on the grounds of University of Central America in San Salvador. The gunman was assisted by two accomplices, another armed person and a driver. Composite drawings of the suspects have been made by the National Police but no suspects have been apprehended. The Popular Liberation Forces (FPL) and the Farabundo Marti National Liberation Front, the umbrella organization to which the FPL belongs, have claimed responsibility for LCDR Schaufelberger's murder. Available evidence gives no reason to doubt their claim to culpability in this terrorist action.

The Government of El Salvador has set up a working group to investigate this crime, and it is pursuing all leads. U.S. Government investigative personnel are assisting in this effort.

IV. APPENDICES

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SALVADORAN AMNESTY LAW

The Constituent Assembly of the Republic of El Salvador,

Whereas:

I. In the election of March 28, 1982, the Salvadoran people declared their total repudiation of violence and all its forms and their determination to achieve peace for their country;

II. All inhabitants of El Salvador have the right to life, honor and liberty, rights that are established in the Constitution, the American Declaration of Human Rights and Duties, and the American Convention on Human Rights;

III. It is the duty of the Government of National Unity to establish fundamental bases so that we Salvadorans and those of other nationalities who reside in our country can enjoy peace and tranquility in an atmosphere of confidence, work and harmony;

IV. Numerous members of the various illegal armed groups have stated on several occasions their desire to withdraw from such groups and live in peace in the Salvadoran community;

V. The Government of National Unity, composed of members of various political parties, offers in its peace program the necessary guaranties for all Salvadorans to exercise their civic rights within the law, and, as a positive measure under that program, it is appropriate to decree the following amnesty and civic rehabilitation law for persons belonging to groups or political organizations of any ideology who are being prosecuted, have been convicted, are being held for investigation, or who have not been the subject of any criminal proceeding for the offenses referred to herein;

VI. The Salvadoran Government must ensure that those who avail themselves of the benefits of this law are peacefully integrated into society as useful citizens, and to that end the state should provide the necessary means for their rehabilitation, providing moral and material assistance so that they may reorganize their personal situation and that of their family,

Therefore (The Constituent Assembly), exercising its legislative powers and on the initiative of the President of the Republic, through the Minister of Justice, having heard the opinion issued by the Vice-President of the Republic and that of the Supreme Court of Justice, hereby decrees the following Law on Amnesty and Civic Rehabilitation.

Article 1. Within the conditions and requirements established herein, amnesty is granted to any Salvadoran civilian who, before this date, has participated as principal or accomplice in the commission of offenses of a political nature or offenses under ordinary law connected with such political offenses, whether or not prosecution has been initiated.

Article 2. For the purposes of this law, political offenses shall be those included in Title I, Chapter I, Articles 373-380 and Articles 392-394 of the Penal Code; and Chapter IV, Articles 400-411 of Book II, Part 4, of the Penal Code; Title II, Chapter I of Book II of the Code of Military Justice; and, in general, those offenses included in Decrees 507 and 943, dated December 3, 1980, and January 15, 1982, of the Revolutionary Junta of Government, published in Diario Oficial No. 228, Vol. 269, of December 3, 1980, and No. 10, Vol. 274, of January 15, 1982, respectively.

Article 3. Amnesty shall be granted to:

(A) Those who have taken up arms against the Government or have participated in other offenses of a political nature, or offenses under ordinary law related to such political offenses, and who avail themselves of the benefits of this law, provided that they are not under detention;

(B) Those who are being prosecuted for one or more offenses, the maximum penalty for which does not exceed four years for each offense, and who complete or have completed six months' detention.

(C) Those who have been sentenced under a final judgment for an offense included in (B) above.

With respect to paragraph (A) above, the certification referred to in Article 7 herein may be used as evidence in a plea for dismissal of criminal charges in any case in which charges are brought or have been brought for the offense included in the certification.

With respect to paragraph (B) above, the Military Judge of First Instance, acting ex officio or at the request of the interested person or any other person, shall dismiss the charges and order the release of the person without bail.

With respect to paragraph (C) above, the Military Judge of First Instance, acting ex officio or at the request of the interested person and after granting the Office of the Attorney General of the Republic three days to submit arguments, shall revoke the penalty imposed and order immediate release of the person without bail.

Release orders issued by the Military Judge of First Instance shall be forwarded directly to the Detention Center with a copy to the Amnesty Board.

Article 4. An Amnesty Board is hereby established. Its Headquarters shall be in San Salvador and it shall be composed of three members, one appointed by the Peace Commission, one by the Human Rights Commission, and one by the Ministry of Interior. The member appointed by

the Peace Commission shall be the Chairman, and the member appointed by the Ministry of Interior shall be the Secretary. The Board may appoint such delegates as it deems appropriate throughout the territory of the Republic.

Article 5. The Amnesty Board shall receive, directly or through its delegates, the applications of persons who desire to avail themselves of the amnesty provisions, or shall hear the oral petitions of such persons, and shall ensure compliance with this law. The Board may order all State communications media, and request other communications media, to publish and disseminate without charge the rules and provisions of this law and any other information the Board may wish to publicize for the purpose of achieving the objectives of this law.

Article 6. Persons covered by Art. 3 (A) who reside abroad and who wish to enjoy the benefits of amnesty may apply in person or through a third person to the Amnesty Board or to its delegates.

Article 7. A Memorandum of Record shall be made of any oral or written application to the Amnesty Board or its delegates and shall include: the personal data of the applicant and a specific statement that he or she wishes to avail himself or herself of the benefits of this law. A copy shall be delivered to the applicant.

When application is made to the delegates of the Amnesty Board, the delegates shall send the original copy of the memorandum of record to the Board headquarters within the following three days, shall retain one duly signed and stamped copy of the memorandum, and shall give the applicant a copy.

A certificate to the effect that the applicant has stated voluntarily that he wishes to avail himself of the benefits of the law and that the offenses with which he is charged are included in the amnesty shall be given to the applicant after being signed and stamped by the Amnesty Board.

The Board shall issue amnesty papers or an amnesty card to persons who are granted amnesty.

Article 8. If the person who is granted amnesty wishes to leave the country, the Board shall apply to the Ministerio del Interior (Ministry of the Interior) or the Direccion General de Migracion (Emigration/Immigration Service) for a special passport which shall be issued without charge.

Article 9. A Committee for the Rehabilitation of Amnestied Persons is established. It shall be formed by the Ministries of Defense and Public Security and Public Health and Welfare, the General

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Coordinator of the National Commission on Assistance for Displaced Persons (CONADES), and the President of the Salvadoran Institute of Agrarian Reform (ISTA), or their representatives. The objective of the Committee shall be to take the urgent and necessary steps to guarantee those granted amnesty under this law life, health, food and work in conformity with the guidelines provided by the Amnesty Board.

Article 10. The Committee for the Rehabilitation of Amnestied Persons shall have the primary function of returning amnestied persons to normal life in society; to that end, it shall adopt such measures as it deems necessary.

Article 11. All trials and proceedings for the offenses referred to in Article 2 of this law which are being heard by courts or officials other than the Military Judge of First Instance when this law enters into force shall be turned over to the Military Judge of First Instance within a preamptory period of 72 hours.

If it is considered that the acts with which the applicant is charged are not covered by this law, the Judge shall return the cases or proceedings to the appropriate court or official as soon as possible.

For the purposes of this Article a period of 15 days from the date of application for amnesty is established for the Judge concerned to classify the offense.

Article 12. No authority or official may oppose compliance with this law or with orders issued by the Amnesty Board in the performance of its duties.

Article 13. The persons referred to in Article 3(A) of Part 1 of this law who wish to avail themselves of the benefits of this law must do so within 60 days from the date the law enters into force.

The Amnesty Board may accept all types of donations from national or international organizations or individuals.

Article 15. This Decree shall enter into force on the date of its publication in the Diario Oficial.

STATISTICAL METHODOLOGIES USED IN REPORTING POLITICALLY MOTIVATED DEATHS

The U.S. Embassy in San Salvador has kept systematic records on public reports of political violence in El Salvador since September 16, 1980. A weekly violence report is prepared using data derived from the four San Salvadoran dailies; Prensa Grafica, Diario de Hoy, Diario Latino, and El Mundo. For consistency's sake, these statistics are culled only from information in the Salvadoran press. The newspapers are reviewed daily and articles crosschecked to avoid duplication. The reports of deaths and violent incidents are then listed.

The Embassy recognizes that this method does not record every death resulting from political violence. The actual totals are certainly higher. But for all its faults this system has the benefit of consistency and allows trends and patterns to be discerned from the data thus accumulated.

The primary source for newspapers reporting on civilian deaths are the justices of the peace located in municipalities throughout the country. One of the primary tasks of the justice is the identification and registration of bodies. Except for the areas with the greatest incidence of armed conflict, justices file regular reports with the courts. To the extent that reporters check with the courts, the figures are an accurate reflection of reported deaths. Not all deaths are reported, and not all areas are covered by reporters or justices. The figures are subject to a degree of under-reporting, but they do accurately reflect trends. Disappearances are reported directly to the press by family members or are taken from court records.

Casualties resulting from military operations are not included in the Embassy figures. The Embassy figures distinguish between press reports of guerrillas killed in action and civilian deaths attributed to political violence. This is in contrast to the methodology employed by the groups compiling figures on political violence in El Salvador. Immediately following the July 28, 1982 certification, all the human rights organizations that follow violence changed their methodology. These groups now include all deaths, except armed forces casualties, as civilian political deaths. Press reports of guerrillas killed in action and civilian deaths attributed to political violence are combined into a single category, deaths attributed to security forces and paramilitary squads. If the guerrillas admit, presumably by means of Radio Venceremos, that they suffered losses during military operations, this number is subtracted from those announced by the military. However, guerrillas do not regularly admit to losses.

Organizations compiling figures on political violence in El Salvador and their methodologies are as follows:

- The Legal Aid Office (Oficina Tutela Legal) of the Archdiocese Commission of Justice and Peace replaced the Socorro Juridico. The Commission began reporting on disappearances in May 1982. In mid-July, 1982, the Commission began issuing violence statistics, derived primarily from press reports. The Commission also monitors figures on deaths from Radio Venceremos (the guerrillas' clandestine radio station), denunciations by family members, and other human rights groups' statistics. These figures may be subject to duplication of reporting from other sources. They may also be inflated since there is no distinction made between press reports of guerrillas killed in action and civilian deaths attributed to political violence.
- The Human Rights Commission of El Salvador (CDHES). CDHES collects information and issues reports on human rights from its office in the Archbishopric. Its figures on deaths and disappearances are taken from newspapers, other human rights organizations, and, on occasion, personal observation. The figures may be subject to inflation through duplication of reporting by other sources, and to inflation by not distinguishing between press reports of guerrillas killed in action and civilian deaths attributed to political violence.
- The University of Central America (UCA). The UCA acts as a human rights information clearing house, taking its information from newspapers and other human rights organizations. The UCA also fails to distinguish between press reports of guerrillas killed in action and civilian deaths attributed to political violence.
- Socorro Juridico Cristiano. When the Socorro Juridico was removed from the Archbishopric in May, it changed its name to Socorro Juridico Cristiano. Its statistics and methods of compiling statistics correspond almost exactly to those issued by the Archdiocese Commission of Justice and Peace. The Socorro Juridico Cristiano's figures may also be subject to duplication of reporting from other sources, and to inflation by not distinguishing between press reports of guerrillas killed in action and civilian deaths attributed to political violence.

Because of the inaccuracies inherent in violence reporting and the possibility of duplication, the reliability of the figures cannot be established. Nevertheless, both the statistics compiled by the Embassy from press reports and those issued by the various human rights organizations do demonstrate trends, despite the differences in their data base and their methodology.

APPENDIX A.3

CIVILIAN DEATHS ATTRIBUTABLE TO POLITICAL VIOLENCE

1980	Press Reports	Socorro ¹ Juridico	CONES ²	UCA ³	CDJP ⁴
October	819		1,383	1,038	
November	779		718	942	
December	575		700	687	
Total:	2,173		2,801	2,667	
<u>1981</u>					
January	665	2,644	2,293	2,333	
February	481	903	1,402	1,402	
March	599	1,922	1,704	1,622	
April	493	2,311	3,048	2,341	
May	434	336	712	347	
June	392	744	730	685	
July	534	586	819	667	
August	479	582	654	592	
September	296	472	498	486	
October	345	438	973	1,038	
November	264	820	1,295	216	
December	349	1,395	2,146	—	
Total:	5,331	13,353	16,276	(11,929)	
<u>1982</u>					
January	279	466	626	539	
February	361	530	405	387	
March	438	326	903	483	
April	170	805	235	353	
May	233	375	269	334	
June	188	355	433	487	355
July	163	199	125	316	109
August	196	702	457	681	584
September	162	473	143	233	185
October	145	618	480	156	482
November	138	620	142	200	227
December	157	296	520	131	380
Total:	2,630	5,965	4,740	4,300	2,322
<u>1983</u>					
January	128	378	672	279	437
February	237	657	350	317	550
March	122	471	184	142	355
April	158	455	326	201	392
May	183	485	343	158	510
June	126	377	396	134	346
Total:	1,054	2,823	2271	1231	2570

¹Socorro Juridico became the Socorro Juridico Cristiano in May 1982 after it was replaced in the archdiocese by the CDJP.

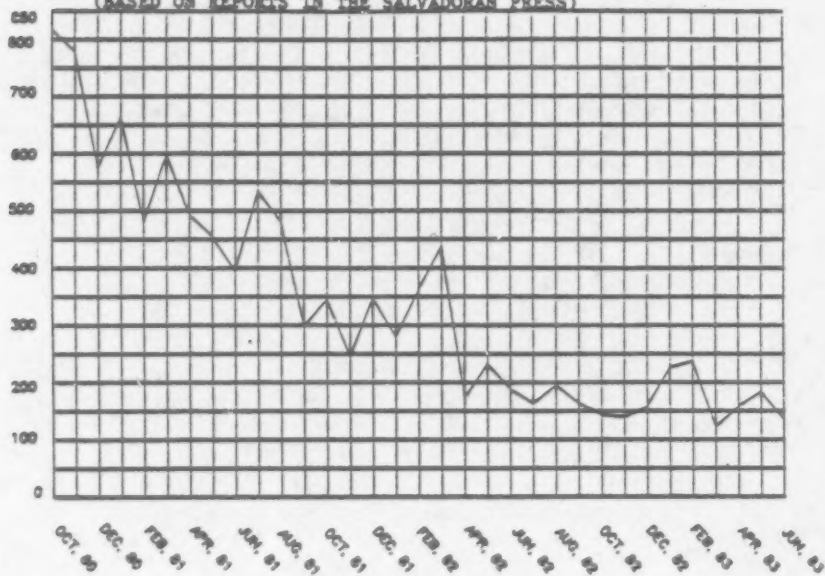
²The Human Rights Commission of El Salvador (CONES); not associated with the Government of El Salvador's Human Rights Commission.

³The University of Central America (UCA)

⁴Archbishopric Commission of Justice and Peace (CDJP)

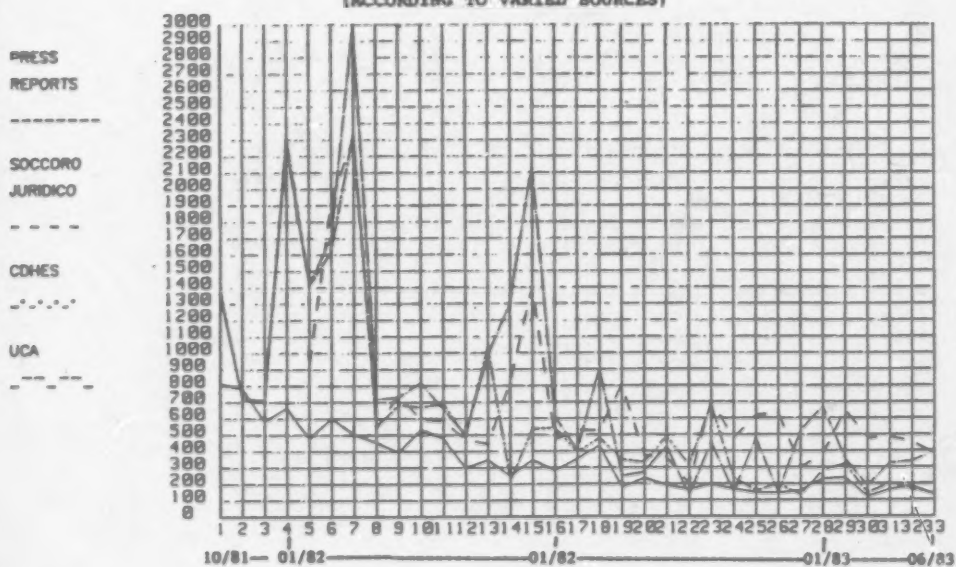
CIVILIAN DEATHS ATTRIBUTED TO POL VIOLENCE

(BASED ON REPORTS IN THE SALVADORAN PRESS)



CIVILIAN DEATHS ATTRIBUTED TO POL VIOL.

(ACCORDING TO VARIED SOURCES)



APPENDIX A.4CIVILIAN DISAPPEARANCES

1981	PRESS REPORTS	¹ CDHES	² UCA	³ CDJP
August	61			
September	51+			
October	40			
November	11			
December	33			
Total	196			

1982

January	44	91	102	-
February	33	15	86	-
March	46	23	57	-
April	52	15	16	-
May	23	-	33	68
June	27	26	52	54
July	57	14	67	61
August	54	17	129	82
September	34	15	90	49
October	26	31	68	47
November	36	23	88	54
December	25	11	60	37
Total	457	281	850	452

1983

January	39	41	56	56
February	25	44	60	32
March	34	27	28	33
April	33	25	100	48
May	53	44	73	90
June	48	23	145	67
Total	232	204	462	326

1. The Human Rights Commission of El Salvador (CDHES); not associated with the Government of El Salvador's Human Rights Commission.

2. University of Central America (UCA)

3. Archbishopric Commission of Justice and Peace (CDJP)

Note: Data on civilian disappearances is subject to the same inaccuracies as that on deaths. Reports for the most part come from urban areas. They are not corrected for errors, releases of detainees, reappearances, etc.

APPENDIX B.1

SYNOPSIS OF THE ARMED FORCES OF EL SALVADOR STANDARD OPERATING
PROCEDURES (SOP) IN COUNTER SUBVERSIVE OPERATION

Forwarding Letter

Dated May 13, 1983, and signed by Minister of Defense Brigadier General Carlos Eugenio Vides Casanova, this covering letter directs recipients to distribute the attached SOP so that existing attitudes and conduct can be adjusted to those procedures contained in the SOP. The letter also makes clear that violations will be investigated immediately and appropriate sanctions will be imposed where warranted. The letter makes it manifestly clear that the SOP applies to all officers, non-commissioned officers, soldiers, and to the security forces as well as the regular armed forces.

The SOP

The document is divided into two parts. The first is a summary of armed forces counter subversive operations, while the second part outlines procedures for the handling of individuals detained by the armed forces.

Highlights of Part IThe Code of Conduct

- (1) I am a representative of the government of El Salvador.
- (2) I will always act in a military manner.
- (3) It is my duty to support and defend the constitution and the rights which it guarantees to the people.
- (4) It is my duty to protect the lives and property of all Salvadorans.
- (5) It is my duty to report, and if necessary arrest anyone who violates the law or constitution.
- (6) In action, I must respect the constitution and keep in mind peoples' human rights. I will not mistreat anyone, nor deny medical treatment.
- (7) I will use minimum force necessary to accomplish my mission.
- (8) If it is necessary to shoot, I will not shoot to kill, but to wound.
- (9) When necessary, I have the obligation and authority to arrest those who violate laws.
- (10) At all times my conduct during and after duty hours will be in accordance with the laws of the country and the orders of my superior officers.

A section of "Standards of Conduct" stresses use minimum force necessary, and proper treatment of civilians.

Eight principles of courtesy for members of the Armed Forces.

- (1) Be pleasant and courteous.
- (2) Private and public behavior should be excellent.
- (3) Serve efficiently.
- (4) Project a good image of the armed forces.
- (5) Show respect and understanding.
- (6) Be just, humane, and equitable.
- (7) Be even tempered.
- (8) Remember that you are a public servant.

The remainder of Part I provides examples of applying the foregoing to specific situations. The all-pervasive tone is that the minimum force necessary should be applied, and that respect for human rights is fundamental.

Highlights of Part II

- The arrest of all suspects will be made by personnel in uniform. Only when specifically authorized can military or security personnel make arrests while in civilian clothes.
- Prisoners are to be treated humanely and given needed medical attention, adequate food, and visitation by the Red Cross and the Human Rights Commission.
- A special section is devoted to the procedures for handling members of the armed forces who are arrested for criminal activities or human rights violations. Commanders of such personnel are required to notify the General Staff immediately and to conduct a thorough investigation. Results of the investigation are then to be furnished to the General Staff and to the Ministry of Defense. During the investigation, commanders are authorized to place the suspected service member under arrest. If sufficient proof of guilt is available, the suspects are to be turned over to proper judicial authority.

APPENDIX C.1.

PHASE III AGRARIAN REFORM STATUS (DECREE 207)

	<u>As of</u> <u>12/31/82</u>	<u>As of</u> <u>6/30/83</u>	<u>Change</u>	<u>Change</u> <u>Last</u> <u>Period</u>
Number of Farmers who have Filed Title Applications for Land (direct beneficiaries)	39,344	50,866	+11,522	+9,638
Total Beneficiaries (estimated at 6 members per family)	236,064	305,196	+69,132	+57,828
Land Area Affected (acres)	155,237	199,023	+43,786	+34,137
Title Petitions Filed	50,409	64,687	+14,278	+13,174
Provisional Titles Issued	34,674	42,415	+7,741	+2,325
Property Owners Compensated	136	271	+135	+123
Amount of Compensation Paid (US Dollars)	3,584,199	6,022,412	+2,438,213	+2,970,069
Definitive Titles	408	2,453	+2,045	+157
Reinstallation of Evicted Beneficiaries	2,532	3,656	+1,124	+394

	<u>Total Government</u> <u>Credit to</u> <u>Agricultural Sector</u> <u>(\$ Millions)</u>	<u>Credit to Phase I</u> <u>Cooperatives</u> <u>(\$ Millions)</u>
1980/81	322.70	105.60
1981/82	382.40	74.00
1982/83	414.20	127.30

APPENDIX D.1

PLAN FOR NATIONAL RECONCILIATION
Issued by Political Commission
February 23, 1983

The Political Commission reaffirms that the solution to the problem of violence must be an essentially political and democratic one. It is therefore essential to carry out, in a continuous and permanent fashion, the necessary efforts to achieve the goals of the democratic process, which is the only road to peace. The Commission therefore categorically rejects the recourse to arms, imposed and supported by forces from abroad, because it is odious to Salvadoran aspirations. The Salvadorans have repeatedly expressed their inclination for peace and democracy as well as their confidence in the process already begun. This process will be fulfilled, according to the government's political calendar, in next year's elections, where the people will freely choose its representatives.

The Political Commission unanimously reaffirms its unwavering decision to maintain peace and its firm determination to establish respect and tolerance for different ideologies in order to achieve a pluralistic, democratic, and just society. A society which will promote social progress through a strict respect for human rights.

In order for peace to exist in El Salvador, it is essential that groups opposed to the present democratic process, whatever their ideology, desist in their radicalized sectarian acts and abandon the irrational strategy of violence, destruction and revenge. Only thus may peace indiscriminately embrace all sectors and tendencies.

Our democratic process, confirmed in the elections of 28 March 1982, is, in itself, a peace process. It is supported, strengthened and energized by the programs of human rights, economic recovery, and social reform, all of which make up the peace program of the Government of National Unity. This integrated program is designed to deal with the causes and effects of the conflict, through the accomplishment of those objectives.

Our program is the only available means to establish those necessary conditions for peace which dialogue, by itself, is unable to accomplish. The simplistically outlined plan for a proposed dialogue will not serve as an adequate means for the attainment of peace. Since it is motivated by propagandistic aims and is used as a tactical tool, it has in fact become a stumbling block to the real possibilities for peace.

The Political Commission urges and coordinates the integral implementation of the peace program as a Salvadoran solution to the Salvadoran problems, creating the instruments and mechanisms for the national reconciliation.

The National Commission will therefore have the following objectives:

- A) To carry out immediately the revision of the bill for an amnesty law and oversee its correct enforcement, with the purpose of having the members of the armed rebellion lay down their arms and join the democratic process;

- B) To promote adequate social and political conditions for an effective and lasting peace; by improving the tools of democratic participation, such as the electoral process; access to the media and the freedoms of association and expression; and
- C) In general, to develop all those activities which tend to strengthen the bases for the achievement of peace in the country, encouraging all political and social sectors to join the democratic process.

The Peace Commission will work jointly and in close collaboration with the Human Rights Commission. It will dedicate itself to the following tasks:

- Enforce the implementation of the amnesty law.
- Revise the laws on political crimes, and its procedures, in order to propose adequate changes.
- Recommend solutions to the problems of civilians living in the war zones, in order to help bring their lives back to normal.
- Recommend measures which will strengthen the judicial branch, so it may become the proper recourse for solving conflicts and the best guarantee of the rights of the individual and of society.

The strengthening of El Salvador's image internationally will produce a better understanding of our situation and help reject, in all its guises, aggression and intervention from abroad. It will help us achieve our purpose for peace, which is affected by conflicting hegemonic interests and which make more difficult our efforts towards peace.

The Constitutional Government of the Republic is committed to the defense of our republican and democratic institutions, presently threatened by subversion.

The Political Commission of the Pact of Apaneca, with the purpose of achieving the most important of all national objectives, duly presents its peace program, designed to overcome social conflict and to make democracy and human rights a reality. It therefore faithfully interprets the will of the Salvadorans who voted on 28 March 1982.

The Commission calls upon the people of El Salvador to support this peace program and to join what is a veritable national crusade in favor of the objectives described in the present document.

Signatures:

Doctor Alvaro Magana Borja, President
 Sr. Raul Molina Martinez, First Vice President
 Dr. Gabriel Mauricio Gutierrez, Second Vice President
 Dr. Pablo Mauricio Alvergue, Third Vice President
 Dr. Fidel Chavez Mena, Minister of Foreign Relations
 General Jose Guillermo Garcia, Minister of Defense
 Mr. Hugo Barrera, Arena Representative
 Mr. Benjamin W. Navarrette, PCN Representative
 Mr. Francisco Quinonez, PPS Representative

STATEMENT BY THE PEACE COMMISSION

May 30, 1983

To all the Salvadoran People:

The Peace Commission created to implement the Apaneca Pact Peace Program reaffirms that the solution to the problem of violence should be an essentially political and democratic solution and, to that end, it makes the following statement:

I. One of the objectives of the aforementioned Peace Program is to initiate activities tending to strengthen the bases for the achievement of peace in El Salvador and to encourage all political groups and all segments of society to participate in the democratic process and in the pursuit of peace.

II. Within the framework of the foregoing proposition, and with the firm determination of achieving peace, the most important of all the national objectives, the Peace Commission introduced an amnesty bill that has already begun to produce the results expected from it. Such determination and clarity of purpose in the pursuit of peace reflect the firm resolve of the Salvadoran people to find Salvadoran solutions to the Salvadoran problems.

III. In that spirit, which fosters national reconciliation, the Peace Commission reaffirms its ineluctable responsibility to seek a peace that will pervade all segments of society. Therefore, it calls on all Salvadorans, including the members of the F.D.R., to give this matter constructive consideration as soon as possible. Such consideration will enable us to restore, through reason and understanding, a [peaceful] coexistence in which all [Salvadorans] may participate in political life, employing democratic mechanisms through which the Salvadoran people may express their sovereign will.

IV. Accordingly, the forthcoming elections, besides representing the return to the full institutionalization of the Republic, will provide an opportunity for integration and participation by all Salvadoran political groups, including those who have risen in arms, in a peaceful democratic contest that may lead to national reconciliation.

V. Lastly, the Peace Commission calls on those Salvadorans who still maintain a hostile and manifestly intransigent attitude to seek peace with firm determination and to change their attitude for the sake of achieving the most important of all the national objectives: The reconciliation of the Salvadoran family.

San Salvador, May 30, 1983

The Peace Commission

Dr. Jose Guillermo Trabaino

Bishop Marco Rene Revelo

Francisco Quinones Avila

APPENDIX D.3STATEMENT ISSUED BY PEACE COMMISSION OF EL SALVADOR
July 12, 1983

Based on the peace program signed by the Political Commission of the Apaneca Pact, it behooves the Peace Commission to promote the incorporation of all political and social sectors into the Democratic and peace process.

On May 30, 1983, this Commission publicly issued a call to all sectors, and particularly to the group called FDR, to begin a dialogue and to make participation in El Salvador's democratic political life possible, a call which is now broadly reiterated.

The only path for finding a solution to the problem of the violence imposed on El Salvador is the political and democratic path. In this sense, the supreme judge is the Salvadoran people through the democratic and, particularly, the electoral mechanisms.

The dialogue to which we have referred must not be used as a means of propaganda or a tactical resource because it runs a serious risk of becoming futile and useless.

This Commission has maintained and will continue to maintain a serious, firm, calm, and evenhanded position to achieve, through its actions, its major objective: Peace.

The Commission regrets the (FDR's) action and apparent reasons for supporting the initiation of the dialogue, particularly as the Commission has used intermediaries to convey clear messages about its position.

The Peace Commission again calls on those who insist on maintaining a hostile attitude and open intransigence to abandon such attitudes for the sake of reuniting the Salvadoran family.

San Salvador, July 12, 1983.

(Signed): Jose Guillermo Travanino
Monsignor Marco Rene Ravelo
Francisco Quinonez Avila, Coordinator.

STATEMENT OF SALVADORAN PRESIDENT ALVARO MAGANA
THE WHITE HOUSE
JUNE 17, 1983

My visit to the United States of America is made in order to strengthen the ties that have historically united us with this country.

It is a propitious opportunity to present to the people of the United States of America a true picture of my country and of the goals we have set within the context of the difficult conditions which confront us. These goals sustain our conviction that President Reagan is giving his support to a legitimate government, and to the just cause of the Salvadoran people for maintaining and consolidating a democratic system in accordance with the tradition of liberty and human solidarity which have constituted the basis for the birth and the greatness of the United States of America.

The situation in El Salvador is part of a world situation of economic crisis and ideological conflict. However, our problems are not solely the result of external factors. For a long time, social and economic inequalities have been obstacles to the full development of democracy. They have provided the opportunity for extra-hemispheric interests, most particularly those of the Soviet Union and her satellites working through two Latin American countries to make us victims of their expansionistic policy.

Our Government is the outcome of the electoral decision of the Salvadoran people, who on March 28, 1982, risked their lives in order to choose overwhelmingly and without doubt the democratic system as a preferred form of political organization. Consequently, my Government is not the result of one or another ideological faction having prevailed: rather it is the clear and constitutional expression of the sovereign will of the people expressed in the most multitudinous free election known in our entire history.

With this legitimate mandate of the vast majority of Salvadorans, the Government of National Unity was formed. On August 3, 1982, we adopted the basic platform, now known as the "Apaneca Pact." This pact includes the common objectives of the political parties expressed during the electoral campaign. These objectives included progress toward peace, democracy, full respect for human rights, consolidation of social reforms and economic recovery: all of which are being carried out in spite of the adverse circumstances, national and international, that we face.

In order to ensure the accomplishment of these objectives put forth by the platform, a Political Commission was set up. This Commission being composed of the Constitutional President of El Salvador, the Foreign Minister, the Defense Minister and representatives of the political parties. The Commission is assisted by other organizations which are responsible for each of the specific objectives.

Respect for human life and the physical integrity, along with the dignity of all Salvadorans is the responsibility of the Commission on Human Rights and the constant concern of my government. I am pleased to say that in order to safeguard those human rights, we have adopted concrete and pragmatic measures, such as the granting of amnesty, accelerated consideration of cases involving political crimes, plans to reform legal procedures applicable to such crimes, cooperation with the International Red Cross, ministerial directives to the security forces to ensure strict compliance to legal procedures, and other similar measures. One important step toward guaranteeing respect for human rights will be the judicial reform which is envisioned in the new constitution: an independent judicial authority and an independent Attorney General, with sufficient authority and sufficient means to improve the administration of justice. Furthermore, the Attorney General will have the technical capability for the scientific investigation of crime.

The reduction in the gravity of conflicts resulting from the economic and social reforms has contributed to the strengthening of the democratic process which the Government of National Unity has committed itself to maintain and consolidate: well aware that they are important conditions for social stability, created in an atmosphere of confidence, and a determining factor in the exercise of democracy.

Convinced of the importance of the private sector to economic recovery, the Government of National Unity has sought to create a favorable climate for the growth of private enterprise. The private sector has joined the public sector in forming a committee charged with economic recovery in El Salvador. These efforts at recovery face difficult obstacles caused primarily by low prices paid for our basic exports, increased prices of imports, and the problems of the Central American Common Market. To these I must add violence and the destruction of the infrastructure. Nonetheless, based on the spirit of diligence and sacrifice of the Salvadoran people, the economic cooperation of the United States of America, and a financial discipline of austerity which has permitted us to maintain tolerable rates of inflation and reasonable currency stability, my government has succeeded in reverting the declining trend of the economy.

The peace program of the Government of National Unity rests fundamentally upon the electoral process and on behalf of this government I reaffirm that the solution to the problem of violence should be essentially democratic. Accordingly, elections with participation by all Salvadorans without distinction, constitute the only means to obtain a definitive and permanent peace in order to establish a pluralist system that ensures democracy.

In view of the importance of the participation of all Salvadorans in the coming elections, in a spirit of good will and in order to create conditions favorable to this full participation, we have enacted a generous amnesty law. To date 500 political prisoners who were subject to the legal process, have been freed under this law.

In order to better achieve our objectives, the Peace Commission on May 31 of this year appealed to the political sector of the subversive elements for the establishment of a dialogue to determine conditions and guarantees for their participation in the next elections. This appeal has been repeated twice in recent days.

Just as the essence of democracy consists of the right of the citizens to elect their leaders and to confer political power on their representatives, negotiating away a portion of this political power would be a divestment and betrayal of the electorate. This my government would never commit.

Our program of peace is the genuine democratic alternative. In this way, peace will be the logical consequence of the democratic process which will be assured in the next electoral events. It will also result from respect for human rights, consolidation of the social reforms, and economic recovery. In summary, it will result from the combined efforts of all Salvadorans.

Foreign military intervention in domestic affairs constitutes the main obstacle to our efforts to attain peace. The interference of extracontinental communist countries by way of Cuba and Nicaragua in support of armed groups against a legitimate, constitutionally elected government, is a form of aggression which violates the essence of international law, specifically the principle of non-intervention in the internal affairs of other states.

Faced with this situation, our armed forces have the constitutional obligation to defend the nation's sovereignty and to repel, in legitimate self-defense, the armed subversion that has been imposed upon us from abroad.

This external aggression has destroyed villages, forcing hundreds of thousands of humble Salvadorans to abandon their homes. It has subjected our productive facilities, our crops, our bridges and roads, our communication and transportation systems and the infrastructure of all public services to systematic destruction.

To alleviate this situation, integrated programs have been commanded to the "Commission for the Reconstruction of Specific Areas," coordinated by the armed forces and tending to bring normalcy of activities to the inhabitants of areas affected by violence through the reestablishing of public services and the reconstruction of the infrastructure.

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No one can dispute a nation's right to defend itself against external aggression and against the destruction of the scarce assets which in a developing country are produced at great sacrifice. For this reason, we have the right to the understanding and solidarity of all free nations of the world. For these reasons we have the right to the understanding and solidarity from all other free nations; as we have had from our Central American brothers, those with whom we share democratic ideals, and for whom I wish to express our gratitude.

El Salvador has not responded to aggression with aggression, nor to intervention with intervention. Last year, with a peace loving spirit we proposed a regional dialogue to strengthen democratic institutions, to end the arms race and the arms traffic, and to improve commercial and economic relations. With the same spirit we accepted the initiative of the "Grupo Contadora," whose invitations we have always responded to positively.

With the future of democracy in our country in great peril, we do know how to appreciate and be grateful for the solidarity and sympathy that President Reagan has clearly expressed for our cause, both in public and in private, and has responded with concrete and significant action.

El Salvador fights not only for the survival of its own democratic system; we also defend western democracy. For this reason I want to appeal to the honorable members of the United States of America's Congress to support the efforts of President Reagan to aid El Salvador. This assistance strengthens the cause of democracy in the Central American region. A weak, vacillating commitment endangers peace and hemispheric security. For this reason the people of the United States must fully understand that we face a common threat.

Our aspirations have been incorporated into the draft of the political constitution that the Constituent Assembly of El Salvador will debate and vote upon in the next days. Therein will be established the constitutional guarantees for the great objectives of the Government of National Unity first embodied in the "Apaneca Pact," and which will become a permanent reality.

Mr. President: El Salvador, my small country, is an example of a newborn democracy defending with its blood the democratic system of the western world against a totalitarian communist regime.

El Salvador reaffirms its unwavering commitment to the defense of peace, democracy and liberty with the understanding and solidarity of all free nations.

Thank you.

PRESIDENT MAGANA'S STATE OF THE NATION SPEECH

July 1, 1983

Mr. President of the Honorable Constituent Assembly, Mr. President of the Honorable Supreme Court of Justice, Vice Presidents of the Republic, your excellencies ambassadors and honorable charge d'affaires accredited in the country, Ministers and Under Secretaries of State, Deputies of the Honorable Constituent Assembly and Magistrates of the honorable Supreme Court of Justice, honorable representatives of international organizations, members of the armed forces, ladies and gentlemen:

In order to fulfill the obligation of appearing before the Legislative Assembly to report on the executive branch's activities and on the country's general situation, I have come before the august representatives of the Salvadoran people to present my report and to reiterate my faith in democracy and in the Government of National Unity.

During an exceptional period, a detailed report on the government's activities is best suited for the heads of the State Secretariats, and it is up to the President to present a general review of the country's situation. By reviewing the objectives of the Government of National Unity and the progress made in achieving them, we give a general overview of the year covered by this report, which constitutes a frank, objective and honest outline of the government's program. Despite the skepticism, and to the surprise of many, 14 months after being implemented, it has fulfilled its historic responsibility thanks to the patriotic will of its members. Concerning the executive branch's activities, I must also indicate that despite the difficult economic situation, which causes financial limitations, we have been able to maintain efficiency levels in the public services and state investment programs, under adverse circumstances.

At the outset of my Administration, I said that although in its short time few things could be done, great things could be initiated. Today I can say with satisfaction that we have begun great things; that what was begun has grown stronger and, in certain cases, has even been completed.

On 1 July 1982, my message set forth the desire that our government would be an expression of national unity. For this reason, we tried to reach a patriotic commitment marked by a unity of purpose to achieve common objectives. Those efforts culminated in the adoption of the basic platform of the Apaneca Pact on 3 August 1982, which is the program of the Government of National Unity and constitutes a commitment that has worked surprisingly well with regard to the essential aspects of its philosophy and contents.

My recent visit to Washington constituted an extraordinary opportunity to present to the U.S. people and to the world the Government platform of a democracy that is currently struggling to consolidate the objectives to which I will now refer:

Representatives: On 2 May 1982, I told you that would devote each day of my mandate to the Government's major goal: peace. And we have done it, because our efforts on behalf of human rights, economic recovery, the democratization process, the consolidation of the reform and, in short, all of the objectives sought by our government program lead us toward peace, which will result from the effort made by all Salvadorans.

The Peace Commission has reiterated its invitation to all political sectors to participate in the next election. With the draft political constitution, you make it possible to have a pluralist government that will enable us to live in peace.

Concerning this important objective, I said in Washington: The Government of National Unity's peace program is mainly based on the electoral process. Through me, it reaffirms that the solution to the problem of violence must be essentially democratic. Within this context, the elections, with the participation of all Salvadorans without distinctions, constitute the only efficient means of obtaining a definitive and permanent peace in order to establish a pluralist system that will strengthen democracy.

On that occasion I also indicated that since the very essence of democracy consists of the citizens' right to elect their leaders, conferring on them the representation of political power, to negotiate the distribution of that power would be to rob and betray the mandate of the electors who are the great majority of all Salvadorans, something which my government cannot do for peace. This cannot be ignored because the people's will is a national patrimony that must be defended to the very last consequences. It is not only a matter of negotiating power, but of consciously opening the doors to chaos through an action marked by unjustified weakness. That is why we clearly said in Washington that any negotiation to distribute power would run contrary to the mandate of the voters, who were the large majority of the Salvadoran people. This is the only thing, definitely the only thing, that my government cannot do for peace.

As regards the democratization process, our firmest purpose is to enforce fully the Apaneca Pact commitments and to obtain the effective participation of all social sectors in the government activities. Democracy is being fully experienced in El Salvador. You, Messrs Deputies, constitute the first legitimately elected state branch, from which other branches spring. The political forces that obtained the people's support on 28 March are represented in these branches.

On another occasion, we described our regime as a government that is reflective, open to progress, understanding, and an advocate of moderation in exercising power. I am very pleased to say that, amid the worst crisis of our history, we have put aside the policy of full power to the President (El Presidencialismo) and have rejected the cult of personality.

The characteristics of our government -- because they are new and we are not used to them -- result in confusion and perhaps even bewilderment for many who believed in democracy. This explains talks about a power vacuum, a power crisis, or a weak government.

Our nascent democracy, which is fully complying with the principle of the separation of branches and thus excludes the strongman idea, will always be better. It is all right that other latitudes associate this strongman idea with tropical regimes, but we must forget this idea forever. It is not only a matter of personal pride but our firm intention to eliminate the policy of full power to the President, and this has been the tone we have tried to give to our administration, which respects the spheres of action of the other branches. This can never be called a power vacuum or a weakness; it is simply a democracy.

In a democracy, a ruler must have an open disposition to leave it up to the people to decide, through the popular vote, the continuation of the democratic process in order to turn over power to the person chosen by them.

The continuation of our democratic process, through the next elections, is our historical commitment in order to reaffirm and consolidate the political system our people have chosen.

The President of the Republic will have the privilege of abiding by the decision of this honorable assembly and the satisfaction of making free and honest elections a reality in order to take the greatest personal pride in turning over power to whoever succeeds me, thus carrying out my people's orders.

The upcoming elections, late this year, are another test for our people. I am sure that we will repeat the historic experience of 28 March. However, this responsibility also falls on the leaders of the political parties, who have the valuable chance of maintaining the honesty, serenity, and maturity our people deserve.

Regarding human rights, in the Apaneca Pact we committed ourselves to respect them fully. This is a determination that stems from our fundamental moral convictions and the respect that we have for ourselves. As an affirmation of this purpose, on December 2 of last year the Human Rights Commission was installed. This commission has promoted the enactment of the amnesty law.

In the same way, we are determined to reform our judicial system. To that end, a commission of Salvadoran lawyers has concluded a report recommending guidelines for the reforms. In addition, the draft constitution establishes the independence of the judiciary and of the Office of the Attorney General, with authority and powers for a better public administration.

However, it must be recalled that one of our best achievements is that the judicial branch presently enjoys complete independence from Executive Branch pressures. The Salvadorans must know that their rights, currently under discussion, are in the hands of an independent judicial branch.

The economic problem is very important. It must be admitted that we cannot advance in our recovery without a climate of trust that permits a normal development of productive activities. Therefore, we have tried to provide security, and to incorporate managerial ability into the efforts of the public sector. This managerial ability is now an important facet of the Committee for Economic Recovery.

It is also necessary for our economic recovery that we maintain tolerable inflation levels and a relatively stable currency. We have achieved this to a great extent thanks to our financial discipline, which we know very well has imposed sacrifices on us in an effort to promote the reactivation of the economy.

For this reason I have proposed bills on salary policy and tax increases. I am aware that there are opponents to these decisions, but I must meet my responsibilities by taking the necessary measures to strengthen our economic and financial situation. I am facing the opposition to these measures because I want the best for my country. I am also facing this opposition because a calm and impartial judgment made afterward will show that there was a need for sacrifices to guarantee the best fruits of Salvadoran efforts in the future.

Despite the scarcity of foreign exchange and the destruction of our means of production and the public services infrastructure because of the violence, we have maintained the level of economic activity since late 1982. ~

There are encouraging signs showing that the downward trend of our economy has reversed itself.

The importance of consolidating social reforms was stressed in the Apaneca Pact in order to achieve a level of economic and political participation from the various social sectors and a peaceful coexistence with less social tensions.

The honorable Constituent Assembly ratified the reforms at the beginning of its term in a clear demonstration of its intentions to seek solutions for our country's grave social problems.

The reforms must not be evaluated only in terms of economic efficiency, but also in terms of social participation which, by decreasing the seriousness of the conflict, will avoid the tensions that are exploited to create a climate of violence.

In the international arena, our purpose has been to obtain greater respect for our rights in order to strengthen self-determination so as to exclude intervention in our domestic problems. Disinformation had placed both El Salvador and its government in the dock. Aware of this, we have been intent on a constant task of explaining our distorted national reality. The world's attention has been focused on El Salvador, but, for some time now, our voice has begun being heard in the international arena. Gone are the days when some country dared say that subversion might be a representative political force.

Since the beginning, we have sought closer relations with our Central American brothers. Those objectives have materialized in the Central American Democratic Community, which links the countries committed to democratic processes, which in the meetings of the Contadora Group have presented their proposals within a regional context. It is important on this occasion to express our recognition of the repeated signs of solidarity that we have received from our neighbors.

Last Christmas I said that in the face of the crisis, destruction, and murder the Salvadoran people have turned their eyes to God, and that aware that efforts are being made to impose an atheistic philosophy on the battlefield that is the human soul, the Salvadorans have chosen God. Less than 3 months after making that statement, His Holiness John Paul II visited us. We received from him the most valuable encouragement to continue our work of peace and national reconciliation. His Holiness' visit presented to the world the real image of the Salvadoran people. The world was able to witness the demonstrations of joy of a devout people united in adversity. There was no discordant note, and all Salvadorans showed their best sentiments.

In December I met in San Jose, Costa Rica, with the U.S. President to whom we explained our situation and intentions. Six months later, I visited President Reagan in Washington in response to his invitation. On that occasion, there were many opportunities to explain our situation. We held working meetings with the President and his closest aides, members of the Senate and House of Representatives, as well as news conferences. In all those events, we responded to the concerns of the U.S. people regarding our problem, and we reiterated our government's position on the foreign aggression. On behalf of my country, and at all times thinking about it, I appeared before the U.S. Government and people and the OAS Council to deliver the message of my people, who have now acquired a continental dimension. I was received everywhere not only with courtesy and attention but also with respect. The Salvadoran people are the ones who received those expressions of respect that they well deserve, and that I now convey to the representatives of the people in this assembly. In many places I found words of encouragement for our cause. I can state that the world knows our situation. I can state that misinformation has been defeated. We went to the United States to achieve understanding. We sought to strengthen the cooperation that a partner defending democracy deserves.

On 3 June when I came before you to reiterate my request for authorization for my trip, I gave you assurances that I would represent the country with dignity; we have done so. We made the categorical statement that we would reject aid if in exchange it would be demanded that we adopt a specific position that would harm our republican principles.

I fulfill my duty by also informing this illustrious assembly that in America's highest political forum, the OAS, I denounced the aggression we are experiencing from the Soviet Bloc countries through Cuba and Nicaragua. I reaffirmed there that one cannot question a people's right to defend themselves from foreign aggression and from the destruction of the few assets they have been able to achieve with great sacrifice. That is why I also said that in the face of this situation our Armed Forces have the constitutional duty to defend sovereignty and to reject, in an act of legitimate defense, the armed subversion that has been imposed on us from abroad.

I feel I am duty bound to express to this illustrious assembly our recognition and gratitude to the members of the Armed Forces who are the strong barrier that has saved and protects our people's lives and property. Those Armed Forces, an arm of their people, make it possible for us to have our budding democracy. Our people, who are aware of the sacrifice of their soldiers, must express their recognition.

We cannot forget that violence has brought destruction and suffering to our people. My government is aware of the conditions in the areas affected by violence and destruction, especially in the eastern region. It is unquestionable that there is a contrast between the sufferings in that region and the rest of the country. I issue a call to the Salvadoran people to express by all means their fraternal support and solidarity with the heroic residents of the affected areas.

Messrs Representatives: That violence very recently claimed the life of a worthy member of this honorable constituent assembly to whose members I reiterate our strongest condemnation of this unspeakable action.

Messrs Representatives: It is highly satisfying to express the recognition you deserve due to your dedication and efforts to conclude the fundamental bill that will establish constitutional guarantees so that the great objectives of the National Unity Government will be a permanent reality. Likewise, the executive branch must express thanks for this illustrious assembly's support for our bills, since difficult times have forced those in charge of the government administration to take initiatives in laws whose scope and benefits are not always clearly seen.

I am pleased to express to you my recognition for the high honor you gave me by giving me an unanimous vote of confidence on the occasion of my recent visit.

Messrs Representatives: In this difficult hour of our history we must listen to the call of the homeland in danger. All, absolutely all, Salvadorans who have faith in the democratic system must contribute our best efforts to guarantee the future of the republic. With the help of God, with deep confidence and unyielding faith in our destiny, I am sure that we have found the path and that we are advancing on our march to give our people the peace that we all desire. Thank you very much.

In the late 1970's, El Salvador began to experience increasingly intense civil disturbances and violent political protest. The proximate cause of these disturbances was El Salvador's long legacy of underdevelopment, social inequity, and misrule, aggravated by destabilizing activities and events authored in Cuba and Nicaragua.

On October 15, 1979 a group of reformist military officers overthrew the government of ex-General Romero. Although Romero had been elected president in 1977 through a form of elections, there was widespread agreement inside and outside El Salvador that, as in previous Salvadoran elections, his accession to power was achieved through manipulation of the electoral system.

Several attempts to form a broadly representative junta of government followed the coup. All were shortlived. In January 1980, the armed forces combined with the Christian Democratic Party to form a government which, with some reshuffling, held power until elections for a Constituent Assembly took place on March, 1982. This period saw the implementation of several major reform efforts, including a land reform, a banking reform, nationalization of foreign marketing of coffee and sugar, development of stronger peasant organizations in farming areas and most importantly, reactivation of political parties and the holding of free and honest elections.

During 1980 and 1981, Cuban and Soviet bloc assistance, channelled through Nicaragua where the far left guerrillas maintained their command and control headquarters, their international relations center, and some training facilities, permitted the guerrillas to escalate and intensify their war effort. During 1980, the guerrillas emphasized consolidation and coordination of their forces and tactics, which had been brought together under the auspices of Fidel Castro the previous year. At that time, their operations were limited to relatively small skirmishes and hit-and-run attacks, both inside the major population centers and in the rural districts, especially in the north and east.

The capstone of this consolidation effort was the so-called "final offensive" of January 1981, in which the guerrillas, hoping to seize power or at least substantially better their position, combined a major military operation with a call for a popular uprising. Their appeal for popular support was generally ignored and, as a result, the Salvadoran armed forces beat back their military initiative with relatively little effort. Following this setback, the guerrillas returned to their previous tactics of skirmishing and night-time bombing (the American Embassy was strafed or rocketed seven times in thirty-one days in March and April).

In May 1981, the guerrillas implemented their present strategy of "guerra prolongada" (prolonged war), which included a gradual build-up of strength and material supplied through Nicaragua, concentration of action in rural districts punctuated by high-profile sabotage operations, and increased targeting of economic targets such as factories, bridges, agricultural installations, the transportation system, the electrical system and water pumping stations. This strategy continues today, abetted by continued supply of war material through Nicaragua and complemented by a diplomatic effort which emphasizes power sharing negotiations with the Salvadoran government.

During 1980, violence against civilians, already on the increase, crested. This was a period in which Government was at its weakest because of the repeated failure to form juntas which spanned the political horizon or because the new armed forces — Christian Democrat Government had just gotten underway. At the same time, the growing political and military strength of the guerrillas, expressed in terrorism, provoked a strong reaction. And the implementation of the sweeping reforms of March 1980 led some formerly moderate conservatives to respond with violence against both the government and the left.

From that point, however, El Salvador began a new consolidation of the political center. The government gained in confidence and ability. The Salvadoran military demonstrated its capacity to respond to the military challenge of the far left, and the reforms settled into institutional development. The hallmark of this consolidation was the March 1982 elections.

On March 28, 1982, some 1.5 million Salvadorans went to the polls to elect deputies to represent them in the country's legislative body, the Constituent Assembly. This massive popular turnout followed a four-month electoral campaign in which six parties ranging from the center-left to the far-right participated. The Central Elections Council and over 200 international observers agreed that the elections, also witnessed by over 700 members of the international press, were fair and honest, the first such elections in over fifty years. The political front of the guerrilla movement was invited to field candidates in the elections, but claimed that conducive conditions did not exist. Instead, the political parties and groups affiliated with the insurgents supported their attempt to violently disrupt the elections.

The newly-elected Constituent Assembly named an interim government and now is charged with writing a new national constitution and acting as a legislative body until another one can be elected under the new constitution. It is composed of sixty seats: twenty-four representatives from the Christian Democrat Party (PDC), nineteen from the National Republican Alliance (ARENA), ten from the Salvadoran Authentic Institutional Party (PAISA), four from the Party of National Conciliation (PCN), two from the Democratic Action Party (AD), and one from the Salvadoran Popular Party (PPS). The 1962 constitution remains in effect in the interim, subject to the requirements of Decree 507 (state of siege), Decree 544 (wage and price freeze), and the agrarian reform. Political parties representing interests that previously tended to express their opposition through violence are now competing in democratic form in the Assembly. Political debate is often divisive, but the parties have shown themselves capable of reaching important compromises.

Following the March elections, the Christian Democrat-Armed Forces Junta dissolved and peacefully transferred its authority to a provisional executive body, named by the Constituent Assembly. The government is composed of members of the major parties that participated in the March 28 elections, including political independents. The president, Alvaro Magana, is a political independent, selected as a consensus candidate after no single party received a majority of seats in the Constituent Assembly. There are also three vice-presidents, each representing one of the three major democratic parties, i.e., ARENA, the PDC and PCN.

- 3 -

The then existing political parties, with the exception of the minor Democratic Action Party, signed the Pact of Apaneca of the "Government of National Unity" on August 2. The Pact establishes goals for the government under the headings: pacification, human rights, economic recuperation, reforms, confidence and security, and strengthening El Salvador's international position. The Pact also called for the formation of three commissions: Political, Peace, and Human Rights. Subsequently, a joint government — Private Sector Commission for Economic Reactivations was established. All commissions are now operating.

PREPARED STATEMENT OF ARYEH NEIER, VICE CHAIRMAN, AMERICAS WATCH,
WASHINGTON, D.C.

My name is Aryeh Neier. I am Vice Chairman of the Americas Watch Committee and Vice Chairman of the Helsinki Watch Committee. I appear here today on behalf of the Americas Watch.

As members of these committees are aware, the Americas Watch has monitored closely the human rights situation in El Salvador. During the past 2 years, at 6 month intervals, we have issued four comprehensive reports on human rights in El Salvador. In each instance, those reports were based in part on information gathering visits to El Salvador. I took part in such visits in connection with the preparation of two of those reports. Most recently, I was in El Salvador a month ago to gather information for the report that we published on July 19, 1983. I wish to submit that report as an appendix to this testimony.

On the basis of our close monitoring of developments in El Salvador, the Americas Watch believes that the human rights situation is steadily worsening. The statistics tell part of the story. During the first 6 months of 1983, the human rights monitoring office of the Archdiocese of San Salvador tabulated 2,527 murders by government security forces and paramilitary groups allied with them and 326 disappearances after abductions by those forces. Since those who do not reappear within 15 days after such abductions never reappear, these two figures must be combined to arrive at the known total of murders by government forces during the first half of 1983: that is 2,853 murders. This is a higher rate of murders than in 1982 and it brings the total known to have been murdered to over 38,000 (that is more than 36,000 murders and more than 2,200 disappearances) by government forces and paramilitary groups allied to them in less than 4 years. One finds oneself searching for ways to present such staggering figures in a way that conveys their full horror. It can't be done. But perhaps one way to think about it is to realize that the Government of El Salvador has murdered nearly 1 out of every 100 of its citizens and, if murders were distributed evenly among families, approximately 1 Salvadoran family in 20 has had one of its immediate members murdered by the government. At least another 20 Salvadorans out of every 100 have fled their homes during the past 4 years, some of them seeking refuge outside the country, some hundreds of thousands getting no further than a displaced persons camp within the country. Moreover, our finding that the situation is steadily worsening is not based only on the misery that has been inflicted on the Salvadorans up to now. It is based on the realization that there is no prospect for any improvement. The only prospect is that many thousands more will be murdered by the Salvadoran Government's security forces or will disappear after abductions by those forces. Many thousands more will be tortured by those forces. And tens of thousands more will be driven from their homes by those forces.

The reason that the prospect is so dismal is that the armed forces of the Government of El Salvador engage in murder, abductions, torture and forced displacement of the population as a matter of policy. Their apparent intent is to exterminate those Salvadorans suspected of harboring views that are contrary to those of the Government and to terrorize Salvadoran civilians so that they fear to permit guerrillas to survive in their vicinity.

In response to pressure from Members of Congress, the Reagan Administration has made some efforts to persuade the Salvadoran armed forces to change their ways. Those efforts have failed and will continue to fail because the Reagan Administration has made it plain that its support may be counted on under any circumstances. Accordingly, the Salvadoran Government has responded to pressure to improve its human rights performance with a few gestures that deal with marginal matters. The central human rights problems of murder, abductions, torture and displacement of population are unaffected, however. The certainty that U.S. support will continue makes it unnecessary for the armed forces of El Salvador to change their ways on these matters in response to pressure from the United States.

Not only are the Salvadoran armed forces certain that U.S. support for them will continue no matter how many murders they commit, they are equally confident that the United States will continue to put as good a face as possible on their practices. They have every reason to be so confident. Four times, the Reagan Administration has been required by U.S. law to cut off military aid unless the Salvadoran Government is making a concerted and significant effort to protect

internationally recognized human rights and unless the Salvadoran Government is controlling all its armed forces to end torture and murder by those forces. Four times, the Reagan Administration has confronted situations in which the conditions of U.S. law cannot be said to be met by any conceivable standard. Yet, four times the Reagan Administration has duly certified that the conditions of U.S. law have been met.

The July 20, 1983, certification is typical. The information cited in the document itself makes it plain that the conditions of U.S. law are not being met in El Salvador. Yet the document's conclusion is offered in disregard of that information.

As of the information in the document, much of it is misleading and much of it is just wrong. Here are some examples:

The certification says that the Government of El Salvador "is committed to . . . building a lasting democratic order." Actually, the political leadership of the center and the left in El Salvador is being murdered or driven from the country. (See pages 37-42 of our July 19, 1983, Report.) Accordingly, it is nonsense to talk of the establishment of a democratic order.

The certification says that a government Peace Commission "has made several public appeals to members of the Revolutionary Democratic Front (FDR) . . . to find mutually acceptable ways for them to participate in the democratic process, including this year's presidential elections." Actually, such appeals are meaningless so long as incidents take place such as the one in November 1980 when the security forces surrounded a high school where six FDR leaders were holding a press conference, kidnapped them, tortured them, mutilated them and murdered them; or the incident in October 1982 when the security forces kidnapped 17 FDR leaders, initially denied that they had been kidnapped and then acknowledged the imprisonment of 11. Six remain disappeared. (See pages 30-36 of our January 19, 1983, Report.) Any FDR leader who stepped forward to take part in the electoral process could anticipate a similar fate.

The certification says that "Salvadoran organizations which monitor human rights confirms this downward trend in the level of violence over the past 2 years." This is false. There has been no downward trend. The number of political murders by the security forces has remained steady at the level of about a 100 a week for the past year and a half. The number of disappearances after abductions by the security forces has remained steady at the level of about 40 a month for the past year and a half except that the number jumped sharply in May and June 1983, averaging nearly double as many as previously.

The certification imputes the difficulty in controlling human rights violations by the armed forces to the fact that "the Salvadoran legal system is in a state of virtual collapse." Actually, this is a dodge. It implies that abuses are committed by rogue members of the security forces. In fact, the quantity of murders is so enormous that it is plain that these murders are committed as a matter of armed forces policy.

The certification has nothing to say about the prosecution of members of the armed forces for human rights violations against Salvadorans, only about disciplining or prosecution for common crimes. Yet prosecutions for human rights violations are a central concern of the certification law. In the Americas Watch reports for July 19, 1983, and January 20, 1983, we demonstrate that the Department of State has engaged in deception on this question. Apparently, having been caught, the Department of State left out the subject entirely in the July 20, 1983, certification.

The certification says that reports in the Salvadoran press, from which the U.S. Embassy in San Salvador gets the figures on murders and disappearances that are set forth in the certification by the Department of State, "are subject to a degree of under-reporting, but they do accurately reflect trends." Actually, they are subject to gross under-reporting and they accurately reflect nothing. (See pages 77-81 of our July 19, 1983, Report.)

The certification says that, "The armed forces, in general, are becoming more sensitive to the treatment of both civilians and prisoners." This is false. The sharp rise in disappearances after abductions by the armed forces in May and June 1983 demonstrates that civilians and prisoners face even greater risks than ever if they fall into the hands of the armed forces. (See pages 24-7 of our July 19, 1983, Report.)

The certification says that the human rights monitoring office of the Archdiocese of San Salvador "monitors figures on deaths from Radio Venceremos (the guerrillas clandestine radio station), denunciations from family members, and other human rights groups' statistics. These figures may be subject to duplication of reporting from other sources. They may also be inflated since there is no distinction made between press reports of guerrillas killed in action and civilian deaths attributed to political violence." This is false. The information compiled by the Archdiocese of San Salvador and published in its monthly reports on political violence is exclusively derived from primary sources—that is testimony taken by the office from eye-witnesses and family members. Names, ages, residences, places and circumstances of killings and abductions are provided along with attributions to the forces responsible, whether government, paramilitary, unknown or guerrilla. Many widely publicized murders are not included in the Archdiocese's reports because the human rights monitoring office is unable to obtain first-hand testimony from family members or eye-witnesses.

In making this false assertion about the human rights monitoring office of the Archdiocese of San Salvador, the Reagan Administration continues its practice of smearing the human rights groups that, at great risk, bring the bad news about the human rights situation in El Salvador.

Again, though the certification document itself is replete with misinformation and distortions, the information it does contain demonstrates that certification is not warranted. Even though the Department of State tries hard to paint a picture of human rights progress, nothing can disguise the fact that El Salvador is a human rights disaster area and that the situation is getting ever more disastrous.

July 19, 1983

Third Supplement to the

REPORT
ON
HUMAN RIGHTS
IN
EL SALVADOR

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In the United States, we were aided particularly by information from the Washington Office on Latin America and from the Unitarian Universalist Service Committee.

The work of Roberto Alvarez, Cynthia Brown and Cynthia Arnson on our previous Report and Supplements provided indispensable background information for this Third Supplement.

Introduction

This third supplement is published a few days before President Reagan must certify that El Salvador is meeting certain human rights conditions if U.S. military aid and arms sales to that country are to continue. It brings up to date the information we published on January 26, 1982 in our Report on Human Rights in El Salvador and in our July 20, 1982 and January 29, 1983 Supplements to that Report. As with our previous reports, we have delivered copies of this report to the President and the Department of State calling on them to refuse to certify because the information we have assembled here demonstrates that the government of El Salvador has not met the conditions for certification for military aid and arms required by Section 728 of the International Security and Development Cooperation Act of 1981 (the "foreign assistance act").

As in our January 1983 Supplement, we focus exclusively on two of the conditions for certification set forth in the law. In our view, the information we have assembled demonstrates that the President and the Department of State are not warranted in certifying:

- 1) That the Government of El Salvador is making a concerted and significant effort to comply with internationally recognized human rights;

- 2) That the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces.

By now, of course, it is plain that neither the material that we have gathered nor any other accumulation of information about the appalling and systematic violations of human rights in El Salvador will deter the Reagan Administration from certifying. El Salvador has assumed far too great geopolitical and political significance to the Reagan Administration to let human rights considerations or the requirements of U.S. law stand in the way.

We refrain from addressing those geopolitical and political issues. They are not our business. Our organizations have no special expertise on those issues and, indeed, have formulated no positions on those issues. We do observe, however, that the geopolitical interests of the United States are not served by the perception in the world that it is the sponsor of so brutally repressive a regime as the government of El Salvador.

Aryeh Neier
Americas Watch

Morton Halperin
American Civil Liberties
Union

Summary and Conclusions

Tutela Legal, the human rights monitoring office of the Archdiocese of San Salvador, tabulated 2,527 murders of civilian noncombatants by government security forces and paramilitary forces allied with them during the first six months of 1983, an increase from the 2,340 such murders recorded by Tutela Legal during the last six months of 1982.

In addition, Tutela Legal tabulated 326 disappearances after violent abductions by the security forces during the first six months of 1983, an increase from the 260 such disappearances recorded by Tutela Legal during the last six months of 1982.

Since those who do not reappear within fifteen days after they have been abducted violently by the security forces must be presumed to have been killed, the figures for murders of civilian noncombatants and of disappearances of civilian noncombatants should be combined. The combined figure for the first six months of 1983 is 2,853 up from the 2,600 during the last six months of 1982.

We emphasize that these are the known political murders and disappearances. Tutela Legal heard reports of a great many more but did not gather the first-hand information on these cases that the organization requires if they are to be included in its tabulations.

We do not make much of the fact that the number of recorded political murders and disappearances has increased.

Given the enormous numbers, our conclusions would be the same if there were the same number, or even if there had been somewhat lower totals. Anything other than the kind of decline in the number of political murders and disappearances that would show some change in policy or practice would make us conclude that the human rights situation is steadily worsening.

The human rights situation continues to worsen, in our view, because:

- 1) political murder by the security forces has been taking place at such an astounding rate for four years that by now it is routine. It is increasingly plain that political murder is not incidental to the conduct of the war in El Salvador. It continues at such high levels because it is the policy of the Salvadoran armed forces to terrorize the civilian population, perhaps in an effort to make the civilians fear to permit guerrillas to survive in their midst and perhaps to rid the country of those who might compete for power in fair elections.
- 2) the Salvadoran security forces are impervious to pressure from the United States to end their practice of political murder, apparently

*In the past, the Reagan Administration did make a great deal of a downward trend. We understand that the Department's own figures show an increase in 1983.

because they recognize that the lectures about human rights that they get from the U.S.

Embassy and from Washington are not going to be backed up by a reduction in military aid.

"On the contrary, though they are lectured by the United States, and though they disregard those lectures, the United States is escalating its support for them.

In March, Secretary of State George Shultz told a Congressional committee that, "If they [the Salvadoran armed forces] don't clean up their act, the support is going to dry up, and they've been told that and they know that and that will happen."* The Secretary is wrong. They may have been told that, but they know it won't happen. Though the Salvadoran armed forces have not cleaned up their act, and though there is no prospect that they will clean up their act, they have every reason to be confident that Secretary Shultz and his colleagues in the Administration will continue to seek support for them.

Although the human rights situation in El Salvador continues to deteriorate as far as the central human rights issue is concerned - that is, political murder - a few marginal improvements did take place during the current certification period. The most important is the highly

*The New York Times, March 23, 1983.

welcome release of some 533 political prisoners under an amnesty law. Secondly, we note that the Salvadoran Government's Human Rights Commission has established a modestly useful role for itself in aiding families to locate relatives who are abducted by the security forces and who are not immediately killed. In a few instances, inquiries by this Commission may have preserved the lives of some of those abducted.

We note that the amnesty and the establishment of the Commission reflect the efforts of the civilian government of El Salvador which seems somewhat sensitive to pressure to improve its human rights performance. By contrast, the political murders and disappearances are the work of the security forces which are as impervious to the efforts of the civilian government as they are to pressure from the United States.

We also note that the civilian government has not taken on the security forces in the one way that might be meaningful in dealing with the central human rights problem of political murder. That is, as best we can determine, there has not yet been a single instance in which a member of the security forces has been criminally punished for a human rights violation. Unless and until military leaders who order or contenance political murders are removed and criminal punishment is the predictable consequence for political murder, it is a sham to pretend that the civilian government actually governs.

In our view, the real government of El Salvador is the security forces and the civilian government is only able to deal with matters of marginal significance.

Because the civilian government doesn't really govern on matters of central importance, and because of the continuing violence by the security forces against the political center and the political left, we believe that any contention that El Salvador is undergoing "democratic development" is unfounded.

Some other major conclusions of this report are:

- that the Salvadoran guerrillas are themselves responsible for an increasing number of human rights violations. Several recent incidents in which captured soldiers or civil defense members were executed are particularly repugnant. Previously, the guerrillas had a far better record than the armed forces in the treatment of prisoners. We call on the FMLN and the FDR to condemn these executions and to see that those responsible are punished.
- that torture is used as routinely as ever by the Salvadoran security forces.
- that members of the Salvadoran security forces are never punished criminally for human rights violations and that the State Department has been engaged in flim-flam in previous

certifications when it has purported to show that punishment takes place.

- that human rights monitors and refugee relief workers continue to be particularly victimized by the Salvadoran security forces.
- that sweeps through displaced persons camps by the Salvadoran armed forces make it impossible for adult males (other than the old and the handicapped) to survive in those camps. Therefore, family disruption on an enormous scale must be added to the list of human rights disasters resulting from the way that the Salvadoran security forces are conducting this war.
- that political leaders of the center and left parties continue to be particularly victimized by the security forces, making it difficult or impossible for them fairly to contest any elections that may be held.
- that one of the weapons that the United States has supplied to the Salvadoran armed forces, the A37 ; one, has been used inappropriately in a guerrilla war in so tiny and densely populated country. Its victims are mostly civilian noncombatants and its use serves primarily to terrorize the civilian population. We question making it

available to the Salvadoran armed forces because of their failure to distinguish between guerrillas and noncombatants.

We conclude that certification is not now warranted, as it has not been warranted in the past. In addition, we conclude that the Reagan Administration has defeated the main purpose of the certification law by letting it be known that certification is a sure thing. Thereby, it has deprived itself of the capacity to influence the central human rights problem in El Salvador: the routine practice of political murder by the Salvadoran security forces.

Murders of Civilians by Government Forces

Previous Certification Period (source: Tutela Legal)

1982

July	201
August	508
September	209
October	561
November	489
December	372

 2,340

Current Certification Period (source: Tutela Legal)

1983

January	430
February	537
March	329
April	386
May	503
June	342

 2,527

Tutela Legal,* the human rights monitoring office of the Archdiocese of San Salvador tabulated 2,527 murders of civilians by government forces and paramilitary groups allied to government forces during the first six months of 1983. This is an increase from the 2,340 such murders recorded by Tutela Legal during the last six months of 1982.

This number of recorded political murders by government

*The full name of the office is Oficina de Tutela Legal del Arzobispado, Comision Arquidiocesana de Justicia y Paz

forces - an average of one hundred a week - is, of course, appalling. Yet the actual number of political murders is almost certainly considerably higher. Just how high is not known and is never likely to be known. Tutela Legal does not engage in speculations about the actual number of political murders. Nor do we. To engage in speculation would be contrary to the rule which guides Tutela Legal in all its work: that is, all the information that it publishes on human rights violations is based on evidence derived from primary sources. (See section on Methodology at pages 77-81)

We assert that Tutela Legal's figures almost certainly understate the number of political murders because Tutela Legal's only office is in San Salvador. Information about political murders reaches Tutela Legal because eye-witnesses and relatives travel to that office to report what happened. If a political murder takes place and no eye-witness or relative reports it to the office in San Salvador, it is not included in the reports published by Tutela Legal. As a result, Tutela Legal's statistics do not take into account even some of the most notorious political murders in El Salvador that have been widely publicized in the press.

According to the director of Tutela Legal, the Archdiocese of San Salvador has not established any office outside of the city of San Salvador because "any office elsewhere would be destroyed immediately."

*Interview, Maria Julia Hernandez, June 27, 1983

In San Salvador, the office is located, for protection, on the fourth floor of the Archdiocese's headquarters building.

The consequences of providing only a single office to receive reports of human rights abuses may be gathered from an interview the Americas Watch conducted with Dr. Benjamin Cestoni, director of the recently established governmental Human Rights Commission.* At present, the governmental Commission also operates a single office in San Salvador. Cestoni discussed with the Americas Watch his interest in establishing regional offices in Santa Ana, San Vicente and San Miguel noting that these would bring to the governmental commission "many more cases." According to Cestoni, many relatives and eye-witnesses don't come to San Salvador for lack of money ("they probably don't have 30 colones," he said) or because they are afraid. "They don't communicate their tragedies to anyone," Cestoni said. "If offices were closer to them they would."

Aside from the difficulties many Salvadorans have in reaching an office in the capital of their war-torn country to report the tragedies they have suffered, Tutela Legal's figures almost certainly understate the number of political murders because a massacre at a village or farm may leave no eye-witnesses or relatives alive to report what happened. Where there are survivors, they may consider it pointless to

*Interview, Benjamin Cestoni, June 29, 1983

journey to San Salvador to report their tragedies, especially given the risks, the lack of transportation, and the costs, because no redress is ever available in El Salvador. (See section on Disciplining Members of the Salvadoran Armed Forces for Human Rights Violations at pages 82-7.)

Even assuming that there is only an average of one hundred political murders committed each week by the armed forces of the government of El Salvador, it is a staggering number. El Salvador is a tiny country, with a population only one fortieth the size of the United States. (If political murders were committed at a comparable rate in the United States, there would be four thousand each week). Since October 1979, Tutela Legal and its predecessor office* have tabulated more than 36,000 political murders. (If a comparable proportion of the United States population were murdered, the number would be more than 1,440,000.) As we have noted in previous reports, it is amazing that the Salvadoran armed forces should continue to find so many politically suspect persons alive to kill in such a tiny country.

*Up to May 1982, Socorro Juridico was the human rights office of the Archdiocese of San Salvador. Socorro Juridico continues to operate as an independent organization, concentrating on legal aid to prisoners and to families of the disappeared. Tutela Legal was established in May 1982 to take over the task of monitoring human rights abuses for the Archdiocese.

As the foregoing indicates, we draw little significance from the fact that the number of political murders by the Salvadoran armed forces tabulated by Tutela Legal is higher during the six months from January through June 1983 than during the previous six months from July through December 1982. What is far more important is that the cumulative number of political murders is greater by 2,527. Most important is the fact that the pattern and practice of political murder by those forces is unchanged. Indeed, the pattern and practice of political murders by the Salvadoran armed forces has remained essentially unchanged for nearly four years. Political murder by the armed forces of the government of El Salvador is routine.

An indication of the way political murder is carried out in El Salvador is provided by the description that follows of the massacre at Las Hojas.

Massacre at Las Hojas

At about 6:30 in the morning on February 22, 1983 several truckloads of uniformed Salvadoran soldiers arrived at Las Hojas, in the province of Sonsonate, a farming cooperative of Indians operated by the Asociacion Nacional de Indigenas Salvadoreños (ANIS). Masked members of the local civil defense guided the soldiers to selected huts which they entered and dragged out the male occupants, including young boys and old men. Other soldiers seized young men walking through the canefields on their way to work.

Later that morning family members and local authorities found 18 corpses about a mile from Las Hojas in underbrush near the Cuyapa River. Their hands were tied behind their backs and they had been shot in the head with high-powered weapons.

One of those who saw the bodies is Dr. Benjamin Cestoni, Director of the Salvadoran government's Commission on Human Rights.* He says he visited the site with Cristobal Aleman, the labor representative on the Commission and that the Commission submitted a report on the massacre at Las Hojas to President Magana on March 7. (He declined to give the Americas Watch a copy of the report on the ground that it was confidential and that a judge might sanction someone for

*Interview, June 29, 1983

giving out information on a matter that could end in court).

Dr. Cestoni acknowledged that he had heard that other reports put the number murdered at Las Hojas and neighboring communities that day as high as 74 but said that he saw 18 bodies. An official of the United States Embassy in San Salvador who had looked into the massacre at Las Hojas was one of those who informed the Americas Watch that "more than 70" persons were killed in the "larger operation" of which Las Hojas was a part.*

One witness was Fermin Garcia Guardado, a 51 year old widower, a farmer, and a member of the local cooperative (ACOINS) and a member of ANIS. He says:

On Tuesday, February 22, 1983 about 200 uniformed soldiers from the Batallon Jaguar of the garrison of Sonsonate arrived at the village of Las Hojas. In this village works the cooperative ACOINS and the soldiers, or rather one of them who seemed to be the boss of the "action" had a list of most of the names of members of the cooperative. The soldiers were accompanied by three persons with their faces covered which seemed to be in order not be recognized and these three persons pointed out the people to be captured. They also had uniforms on to be confused with the soldiers. Despite that, some members of the cooperative were able to identify the people with the covered faces as Mario Perez, member of the Civil Defense; Juan Sermeno, also member of the Civil Defense; and Marcial Caceres, village commander. These three people had a personal conflict with the cooperative because the cooperative people resisted abuses they used to commit. The

*Interview, June 28, 1983.

people with the covered faces used to let their cattle on to cooperative lands, they destroyed the cooperative's ploughlands, broke fences and sexually abused their daughters. When they understood that we had united together to defend ourselves from such obscenities ["estas groserias"] they started to hate us and that is why they accused us of being subversives, communists.

Thus they captured Juan Bautista Martir, 75; Marcelino Sanchez Viscarra, 80; Hector Manuel Marquez, 60; Benito Perez Zetino, 40; Gerardo Cruz Reyes, 45; and my son, Jose Guido Garcia, 20, who all were taken to some place south from the cooperative. At 10 a.m. the same day we went to the Garrison of the Army in Sonsonate to find out the reason for the capture. The commander of the Garrison told us: "we have no report" and that "they would go to look for them and if they find them they would let us know." So we left and went to look for the bodies, because we believed they were already killed since chance so ordained it that when he was speaking to us, the three trucks in which the soldiers had come to our village arrived at the Garrison and there was none of the captured in them, only one of the men with covered faces was with them. So we left to look for the corpses and we found them one kilometer south from the cooperative, at the bank of the river Cuyapa. All of them had their heads destroyed by shots and their thumbs twisted, some to the back, others to the front. Among them was my son I mentioned earlier. We found the bodies at 1 p.m. and besides the corpses of the members of the cooperative, also there were bodies of 10 unknown to us between 20 and 40 years old. So we went back to the garrison to tell the commander that we had already found the bodies and after hearing this he told us that in the report he'd received, only four people were killed, all of them of the last name Mejia. In that moment we said: excuse us but the people killed were our friends and then the commander told us that if they were killed, they were killed for being subversives. We had this conversation with Colonel Elmer Gonzalez Araujo I have heard from other

neighbors that in the whole village there were 74 bodies but I couldn't confirm it myself because we were busy burying the bodies of our people."

On February 23, 1983, General Jose Guillermo Garcia, then the Salvadoran Minister of Defense publicly pledged that a full investigation would be conducted and that justice would be done for the Indian families victimized by the massacre.

The Commander of the Salvadoran army garrison at Sonsonate and, accordingly, the individual directly responsible for the massacre at Sonsonate, is Colonel Gonzalez Araujo. He was interviewed subsequently by a delegation that visited El Salvador under the auspices of the Unitarian Universalist Service Committee.** The U.U.S.C. reports that Colonel Araujo says that what happened at Las Hojas was that an army patrol was attacked by a group of subversives wielding machetes, hand grenades and at least two M-16s. Colonel Araujo said that he had previously warned Esquino Lisco, the leader of ANIS, against subversive infiltration but that the warning was not heeded. No other

*Testimony at the offices of Tutela Legal in San Salvador, March 3, 1983. Several other testimonies from witnesses to the events at Las Hojas are reproduced in Tutela Legal's Informe No. 11, Marzo de 1983.

***"El Salvador 1983," Report of a fact-finding mission sponsored by the Unitarian Universalist Service Committee, Rep. James Oberstar, Rep. James Jeffords, Rep. Bill Richardson.

information on the events at Las Hojas that we have examined provides any support for Colonel Araujo's version.

Not all the bodies were identified after the massacre. Residents of villages near Las Hojas that were also attacked feared to come out in the immediate aftermath of the massacre to identify the bodies. By the time they did come to look, dogs and vultures had made identification impossible.

Though nearly five months have elapsed since the massacre at Las Hojas, and four months have elapsed since the Salvadoran government Commission on Human Rights submitted its report to President Magana, no disciplinary action has been taken against Colonel Araujo. Of as many as 200 soldiers who took part in the massacre, only one has supposedly been subjected to any disciplinary action: a Captain Carlos Alfonso Figueroa Morales. According to an official of the U.S. Embassy in San Salvador, Captain Figueroa has been placed in administrative detention. Theoretically, that means he is restricted to the army base where he is stationed. In practice, according to the U.S. Embassy official, Captain Figueroa is not restricted at all in his movements.* According to a newspaper report, Captain

*Interview, June 28, 1983

Figueroa is no longer stationed at Sonsonate but has been given a new post in another region of the country.* According to another newspaper report, Captain Figueroa is back at Sonsonate, newly installed as the head of intelligence in the area.**

Fermin Garcia and Adrian Esquino Lisco, the leader of ANIS, journeyed to the United States and met with members of the U.S. Congress in April to discuss what took place at Las Hojas. On June 24, 1983, Fermin Garcia was arrested by the Salvadoran National Guard, and charged with attempting to kill one of the Civil Defense members who served as a fingerman on February 22. At this writing, he is being held in the Central Prison in Sonsonate. Adrian Esquino Lisco has expressed concern that he too will be arrested.

Cristobal Aleman, the member of the Salvadoran government's Human Rights Commission who investigated the massacre at Las Hojas, now carries a gun because he has been followed by armed men in civilian clothes in an unmarked car since he reported his findings.

*"Massacre Probe Shows Weaknesses of the Salvadoran Justice System," Edward Cody, The Washington Post, July 7, 1983.

***"Salvadoran Tied to Killings Now in Intelligence Job," Lydia Chavez, The New York Times, July 9, 1983.

As The New York Times wrote, "It now appears the writing of the press release was as far as the arrest [of Captain Figueroa] went."^{*} The only person actually arrested as a consequence of the massacre at Las Hojas has been the father of one of the victims, Fermin Garcia, the man who took it upon himself to complain to Colonel Araujo and to other Salvadoran officials and to members of the United States Congress.

^{*}Ibid.

Disappearances Following Violent Abductions by the
Security Forces

Previous Certification Period (source: Tutela Legal)

1982

July	44
August	58
September	44
October	39
November	38
December	37

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260

Current Certification Period (source: Tutela Legal)

1983

January	56
February	32
March	33
April	48
May	90
June	67

—
326

Tutela Legal tabulated 326 disappearances following abductions by government forces and paramilitary groups allied to government forces during the first six months of 1983. This is a significant increase from the average of 40 such disappearances a month recorded by Tutela Legal during 1982. Especially noteworthy is the sharp rise in the number of disappearances recorded during May and June.

"
"

It must be assumed that all or virtually all those who disappeared after abduction by government forces are dead. Experience indicates that, in El Salvador, those who do not turn up alive within 15 days of abduction never reappear. Accordingly, by rights, the figures for disappearances should be added to the figures for political murders to reach the total known to have been murdered by government forces. If this were done, the number of civilians known to have been murdered by government forces during the first six months of 1983 is 2,853.

Moreover, there is a respect in which disappearances are even more terrifying than most other political murders. Many of the deaths classified as political murders by Tutela Legal involve attacks en masse on the civilian population by government forces, ostensibly in an effort to kill guerrillas, though actually in circumstances in which it is evident that the targets are non-combatants thought to be sympathetic to the guerrillas, or non-combatants suspected of providing food to the guerrillas, or non-combatants suspected of failing to disclose the whereabouts of guerrillas, or noncombatants against whom officials bear ill will for personal reasons such as those massacred at Las Hojas. Disappearances are different. Typically, they involve planned abductions and murders of particular individuals. Disappearances cannot be considered to be concomitants of

the kind of war that is being fought in El Salvador. Rather, like disappearances elsewhere, those that follow abductions by the Salvadoran armed forces represent a planned and deliberate effort to exterminate political dissenters. Accordingly, the 90 disappearances in May and the 67 disappearances in June reflect a major escalation in human rights abuses by the government of El Salvador.

The number of disappearance tabulated by Tutela Legal almost certainly understates the actual number for the same reasons that the number of political murders is almost certainly understated. (See pages 12-14.) The cumulative total of disappearances following abductions by the armed forces recorded by Tutela Legal and its predecessor since October 1979 is now over 2200.

The political targeting that is involved in disappearances is evident from the fact that the majority take place in San Salvador and its environs, a region almost untouched by guerrilla warfare during the past six months. In addition, as has been the practice in other countries where disappearances are used as a method for suppressing dissent, a large number are carried out by groups of heavily armed civilians. (See table on following page.)

ABDUCTIONS BY SECURITY FORCES, JANUARY - JUNE 1983

	January	February	March	April	May	June
Total Abducted Violently for Political Motives	79	54	54	94	146	114
Disappeared After Abduction	56/71%	32/59%	33/61%	48/51%	90/62%	67/59%
From San Salvador and Environs	58/73%	38/70%	39/72%	60/64%	92/63%	65/57%
Abducted by Armed Civilians	22/28%	22/41%	20/37%	35/37%	44/30%	48/42%

Source: Tutela Legal.

Torture

In the period from January through June 1983, 215 of the 541 persons who had been abducted by the security forces or paramilitary groups allied to them subsequently reappeared. The majority of the 215 reappeared in Mariona Prison (where male political prisoners are confined) or in the custody of the National Police. A few reappeared in the women's prison, or in the custody of the treasury police, or in military prisons, or dead.

According to the staff of Socorro Juridico Cristiano, formerly the legal aid office of the Archdiocese of San Salvador and now an independent legal aid organization, those who survive abductions by the security forces are invariably tortured.* This is the case regardless of which security force is involved in the abduction. Socorro Juridico has found that torture is not practiced at Mariona Prison (except for one case that took place prior to the March 1982 elections) or at Ilopango Prison where female political prisoners are confined. Rather, torture takes place during the days immediately following abductions while prisoners are still in the custody of the security forces that abducted them.

This finding by Socorro Juridico is consistent with

*Interview, June 27, 1983

statements that have been given to the Americas Watch by former political prisoners. They report that they were not mistreated once they made it to Mariona Prison or Ilopango Prison but they were beaten and otherwise tortured during interrogations by the security forces that abducted them. In addition, former political prisoners report that other prisoners who arrived at Mariona or Ilopango while they were incarcerated there generally arrived in a daze, showed physical signs of torture, and invariably reported that they had been tortured.

A United States medical group that visited El Salvador in January 1983 has reported that:

Some 30 political prisoners we interviewed in the penal institutions of Mariona and Ilopango said that they had been tortured while in the custody of government security forces. According to these accounts, corroborated in certain cases by physical examination, prisoners were subjected to such abuses as rape, sexual violation, beatings, electric shocks, burnings, hanging by the wrists, near suffocation with rubber masks, forced standing (often naked) for extended periods of time, and threats against their person or family members. All of these incidents were alleged to have taken place prior to the prisoner's arrival.

During our visit to the penal institutions we met an elderly peasant (campesino) who had both testicles surgically removed after being severely beaten in the genitals by National Police personnel. A recent arrival at Ilopango prison, who was pregnant at the time of her abduction, said she had been beaten by Treasury policemen several days prior to our visit. Another female detainee in Ilopango prison told us that Treasury policemen had forced a rubber mask over her head during

interrogation. The mask was removed only at the point of near suffocation. She also said she had been forced to stand naked for five hours, while she was threatened with rape."

On the other hand, the Director of the Salvadoran government's Human Rights Commission told the Americas Watch that, during the Commission's first six months, he had only encountered a single case in which a man imprisoned after he was abducted by the security forces complained that he had been tortured.** He dismissed the suggestion that those who had been abducted might be reluctant to make such complaints to a governmental official noting that, in cases in which the Commission was in contact with a prisoner, the Commission had aided in locating the person after abduction. Accordingly, he said, prisoners are very grateful to the Commission and talk freely.

A Unitarian Universalist Service Committee group reported after a March 1983 visit:

In El Salvador our delegation saw the marks which torture leaves on the human body; we saw photos of men and women beheaded and split like sheep; we heard relatives tell of the death and mutilation of a 75-year old man; heard a Colonel admit without shame that he

**Report of a Medical Fact-Finding Mission to El Salvador" 11-15, January 1983, American Association for the Advancement of Science, Institute of Medicine of the National Academy of Sciences, International League for Human Rights, National Academy of Sciences, New York Academy of Sciences.

**Interview, Benjamin Cestoni, June 29, 1983.

napalmed his countrymen; we heard the statistics confirming that no kind of atrocity is unusual in El Salvador; we heard the President of the country admit that he has no power; we heard the military tell us repression is essential; and we heard it all justified in the name of anti-Communism and nothing more.*

A great many of the corpses of those murdered by the security forces show signs of torture and of mutilation. For example, Paula and Mauricio Ernesto Acevedo-Mejia, Christian Community relief workers, were abducted by the National Police on April 4, 1983. Their bodies were found two days later. She had been raped and her fingers had been broken. He had been beaten, his testicles showed signs of cigarette burns, and he had been shot in the back of the head.**

*"El Salvador 1983," Op. cit.

**Archbishop Rivera y Damas attributed these murders to the National Police in his homily of April 10, 1983 and again referred to these murders in his homily of April 17, 1983.

Repression Against Human Rights Monitors

In the past three years, those in El Salvador who monitor human rights have been particular targets of repression. That repression continued during the past six months.

On February 23, 1983 Dr. Roberto Rivera Martelli, a founding member of the El Salvador Commission on Human Rights, was abducted from his clinic in a suburb of San Salvador by several heavily armed men in civilian clothes. He has not been seen since.

A 32-year-old gynecologist who practiced general medicine, Dr. Martelli had served on the governing board of the Commission on Human Rights which routinely sent to him victims of human rights abuses who required medical attention. The area in which his clinic is located is ordinarily patrolled by the Treasury Police. Several patients and Dr. Martelli's secretary witnessed his abduction. A writ of habeas corpus was filed to no avail. There has been no explanation of his disappearance.

On March 16, 1983, Marianela Garcia Villas, President of the El Salvador Commission on Human Rights was killed. The circumstances are in dispute but, on the basis of interviews conducted by the Americas Watch, we believe that what happened is as follows.

"

Garcia Villas, who had been in Mexico, returned to El Salvador legally and visited the Commission's office in San Salvador. She undertook to conduct an investigation of what members of the Commission suspected might be the use of chemical weapons. To do this, she went to an area near the town of Suchitoto to gather testimony from residents of the area and to take photos. She was there at a time when the area was the subject of bombings and, when the situation got difficult, joined a group of some twenty refugees heading for Suchitoto. Apparently thinking that the refugees were guerrillas, an army patrol ambushed them and, in the shooting that took place, Marianela Garcia Villas was killed.

In the Army's first version of the incident, it was reported that two journalists had been killed. Apparently, because Marianela Garcia Villas did not look like the campesinos she was accompanying, and because she had a camera and notes, her body was mistaken for that of a journalist. What happened to the other body thought to be that of a journalist is not known.

Subsequently, the army realized that the corpse was that of Marianela Garcia Villas. The army then said that she was a guerrilla leader leading a group that was trying to blow up electric cables and that she had died in combat, weapon in hand. She was referred to as "Comandante Lucia,"

a name she had been previously called by Major Roberto D'Aubuisson.* The U.S. Department of State endorsed this version of what happened.**

The El Salvador Commission on Human Rights regards the attempt to portray Marianela Garcia Villas as a guerrilla leader as very threatening to it. For the same reasons, it resents a statement by a member of the government Commission on Human Rights, Monsenor Freddy Delgado, who was quoted publicly as saying: "We are the democratic human rights commission, the other is the guerrilla commission." As a member of the El Salvador Commission on Human Rights told the Americas Watch, "In this country, to be linked with the guerrillas is a death warrant."***

Previous attacks on members of the El Salvador Commission on Human Rights include:

- September 1980 - the Commission's offices on Avenida Espana are bombed
- October 1980 - Maria Magdalena Henriquez, press secretary, and Ramon Valladares,

*In addition to the Army version, a version of the killing of Marianela Garcia Villas has circulated in which she was captured alive and then executed. The Americas Watch did not find any confirmation for this version, though we are aware that efforts are underway to conduct an independent autopsy to establish the cause of death.

**Posted on March 22, 1983 in response to a March 16, 1983 briefing question.

***Interview, June 27, 1983.

administrator, are abducted and murdered.

- March 1981 - the Salvadoran Armed Forces publish a list of 138 "traitors" who will be "relentlessly pursued." One of the names on the list is Marianela Garcia Villas
- December 1981 - Commission member Carlos Eduardo Vides is detained at an army road-block along with two employees of the Salvadoran Archdiocese. They are still "disappeared."
- August 1982 - America Fernanda Perdomo, the staff member in charge of public relations, is abducted by the Treasury Police with three other persons from a home in a suburb of San Salvador. All four remain "disappeared."

Another human rights group, Socorro Juridico Cristiano, has also been a target of repression including the ransacking of its offices, repeated police raids, and the disappearances during the last certification period of two persons who had been employed in its offices, Pedro Posada and Patricia Cuellar Sandoval. The Americas Watch inquired particularly at the U.S. Embassy in San Salvador about Ms. Cuellar, a United States citizen, who was abducted on July 28, 1982 by several armed men wearing olive green uniforms. Her father

and a domestic servant were abducted the same day. A consular official told the Americas Watch that there had been no developments in the Cuellar case and that the U.S. Embassy in San Salvador had recommended to the Department of State in Washington that a full-time investigator should be assigned to the case, but that no action had been taken on this recommendation by the Department.*

*Interview, June 29, 1983

Repression Against Political Leaders

According to the January 21, 1983 Certification by the Department of State, El Salvador is undergoing a process of "democratic development." It goes on to assert that, "The Government of National Unity is attempting with some success to check the political polarization, which has plagued the country for years, and is laying the basis for a democratic, pluralistic government founded on a broad consensus."* That Certification does not mention the October, 1982 abductions by security forces of 17 leaders of the Revolutionary Democratic Front (FDR) and of labor unions and the subsequent "disappearance" of six of these persons.** Nor does it mention the September 1982 statement by the Christian Democratic Party that some 35 mayors belonging to the party had been murdered, nine of them in 1982. Nor does it mention the many other incidents of violence by the security forces against political leaders of the left and the center.

Such violence continued during the current certification period. The six FDR and labor union leaders who disappeared in October 1982 have not reappeared and, by now, must be presumed to have been murdered by the security forces that abducted them. The Christian Democratic Mayor of El Carmen,

*At page 20.

**We had called these kidnappings to the attention of the Department State when they took place. See ACLU/Americas Watch correspondence with the Department, Appendices A and G of our January 20, 1983 Supplement.

in the province of Cuscutlan, was murdered in April 1983 by the security forces that operate in that region. On May 6, 1983, the corpse of a young man who had been strangled and shot in the head was dumped in the parking lot of the Camino Real Hotel in San Salvador where most foreign journalists stay. A press release from a paramilitary squad that took credit for the murder was found in a pocket of the victim. It warned Mauricio Armando Mazier Andino, a Christian Democratic member of the National Assembly, that the same fate awaited him. Mr Mazier had given a speech in the Assembly two days earlier calling for a crackdown on death squads.

A week after the threat to Mr. Mazier, the Christian Democratic Party placed advertisements in the Salvadoran newspapers containing a message to President Magana. It said that, "Authorities must take whatever steps are necessary to stop groups of paid killers who murder with impunity, but without penalty of law" and that "there are continued abuses of authority, arrogance and political repression on the part of some elements of the armed forces and civil defense groups."

A Los Angeles Times interview with a PDC spokesman, Oscar Quiroz, indicates why the party placed these advertisements:

"Everybody knows where the killers are, but nobody acts against them," Christian Democratic spokesman Quiroz said.

He recalled an incident in the tiny back-country town of Chinamequita, where first one appointed Christian Democratic mayor was murdered, and then a second. "The city council came here to San Salvador to name a woman the third mayor. She was murdered that afternoon," Quiroz said.*

The article goes on to quote Assembly member Mauricio Mazier as saying, "I am not living at home just now."**

In the week of June 6-12, 1983 the following persons were abducted by security forces: (1) a Christian Democrat who was the former mayor of Acajutla; (2) the Recording Secretary of the United Federation of Trade Unions (FUSS); (3) Prospero Trejo, an engineer formerly with the land reform institute and the brother of a Christian Democrat member of the Assembly. All disappeared.

When two Americas Watch representatives visited the PDC's headquarters in San Salvador in June, they found that it was being protected by several heavily armed guards. Jose Antonio Morales Ehrlich, the party's Adjunct Secretary General, told the Americas Watch that violence against the PDC is rising. Asked about whether he knew if any progress had been made in prosecuting those responsible for the many murders of PDC leaders that took place in the wake of the March 1982 elections, Morales Ehrlich shrugged and said,

*"Salvador Death Squads Assailed," William Montalbano, Los Angeles Times, May 14, 1983.

**Ibid.

"Here in El Salvador, I don't think anyone follows the course of investigations or trials.*

Discussing the question of safety for the party's candidates in the event general elections are held, Morales Ehrlich expressed the view that the PDC would be able to arrange protection for its presidential candidate, Jose Napoleon Duarte. He said, however, that the PDC would face severe difficulties in protecting its "second level activists" who would probably be the principal victims of abuses of authority.

The continuing victimization of Christian Democratic activists poses a severe threat to the party's ability to contest elections fairly. The newspapers that survive (following the violent shutdowns of La Cronica and El Independiente by the security forces in 1980 and 1981) will not cover the PDC. Morales Ehrlich pointed out that 40 journalists had attended a PDC press conference on the day before the Americas Watch interview with him and that not a line about the press conference appeared in the press.** Accordingly, campaigning is limited to paid advertising and street campaigning. The latter is essential to the party, but it is severely restricted by violent attacks on party

*Interview, June 28, 1983.

**Ibid.

activists by the security forces and paramilitary groups allied to them.

Until recently, violent attacks on political leaders by the left had not had a significant effect on the political process in El Salvador. However, on June 28, 1983, an ARENA Deputy in the National Assembly, Rene Barrios Amaya, was murdered in San Salvador. A guerrilla group, the FPL, took credit, thereby putting itself in the same class with those security forces that attempt to shape the country's politics by murder.

The murder of Barrios Amaya produced quick reprisal, though the victims were two PDC activists who were abducted by plainclothesmen on June 29, at 5 p.m. as they met at a bus stop to go home after work. They were Joel Herrera Ochoa, a professor in adult education employed by the Ministry of Education, and his wife, Gloria Elizabeth Cornejo Machon. Their corpses were later found in the parking lot of the Siesta Hotel in San Salvador, with a note in which the Secret Anti-communist Army (ESA), "comando Jorge Alvarez," claimed responsibility for their execution. The communique, signed by a "Commander Zero-One," claimed that the couple had been sentenced as members of the FMLN, and that, in response to the murders of Assemblyman Rene Barrios Amaya and several members of the security forces, the ESA had gone into a "state of maximum alert" and would conduct more "secret war

councils" against members of the FMLN. It also said 10 subversives will be executed for each "good Salvadoran they kill."*

The great number of murders and abductions by the security forces make a mockery of the contention in the January 21 Certification that El Salvador is undergoing "democratic development" and that the Government of National Unity is laying the basis for "pluralistic government." The government of El Salvador, which is responsible for the murders and abductions of political leaders by the security forces, is the enemy of pluralism.

*Diario de Hoy, July 4, 1983.

Repression Against Doctors and Other Health Professionals

During this certification period the Salvadoran security forces continued to persecute doctors and other health professionals suspected of providing medical care to activists in the FMLN or the FDR or to other opponents of the government. In this, the Salvadoran security forces persist in violating established principles of international humanitarian law that recognize the responsibility of doctors and other health professionals to provide medical care to all.*

This practice over the past few years has been extensively documented.** It was continued in June 1983 when the security forces conducted a number of raids in Santa Ana resulting in the abduction of more than a hundred persons. After repeated inquiries, on June 28, the Press Committee of the Armed Forces (COPREFA) acknowledged the detention of 21 persons who had been charged with membership in the FMLN and who had been remanded to Mariona and Ilopango prisons. Another four persons, including Dr. Gustavo Vega, Secretary of the Catholic University of the West, were also reported as arrested by COPREFA, but they were subsequently released.***

*See, for example, Article 24 of the Geneva Convention for the Amelioration of the Wounded and Sick, August 12, 1949.

**See, for example, "Report of a Medical Fact-Finding Mission to El Salvador," 11-15 January 1983, op.cit.

***La Prensa Grafica, June 28, 1983.

Among the 21 still held are two medical doctors: Jose Vincente Arevalo Alvarez and Marco Antonio Vasquez de Paz. Also being held is a nurse assistant, Lidia Esperanza Arevalo Fuentes.

The COPREFA announcement says that the charges against Dr. Arevalo and Dr. Vasquez are that they provided medical attention to FMLN/FDR militants and claims that they have "identified themselves" as members of the ERP, one of the constituent organizations of the FMLN.

Previously, Dr. Roberto Rivera Martelli was abducted from his clinic by a paramilitary group and disappeared (see page 32) and Dr. Angel Ibarra was abducted by the National Police and tortured before his whereabouts were acknowledged (see page 47).

Dr. Alfred Gellhorn of the Harvard School of Public Health who led a medical group that conducted a fact-finding mission in El Salvador has written about the fate of some twenty health professionals who were abducted in El Salvador in 1982:

four were in prison, two had been freed, and one was confined to a mental hospital. There was no trace of the other 13. Moreover, while in El Salvador we were given documentation on the disappearance of 20 additional health workers during 1982. From frightened families and colleagues we also learned of a number of other physicians, nurses and paramedics who disappeared or had been killed.*

*"Medical Factfinding Report" of Alfred Gellhorn, M.D., New England Journal of Medicine, April 28, 1983, pp. 1043-4.

Repression Against Refugees and Refugee Workers

At least 300,000 Salvadorans are displaced persons within their own country, living in refugee camps or surviving as best they can on the outskirts of San Salvador and of other cities. At least another 120,000 Salvadoran refugees have fled to Mexico; more than 100,000 have taken refuge in Guatemala, Honduras, Nicaragua and other countries of Central America; and it is generally estimated that some 500,000 Salvadorans have come to the United States since October of 1979. All told, therefore, more than one million Salvadorans, close to twenty per cent of the population, have fled their homes.

The situation of the displaced persons within the country is particularly desperate. Many refugee camps that exist within the country are sponsored by private organizations. These refugee camps are repeatedly raided by the Salvadoran security forces, apparently in a search for guerrillas.

One consequence of the raids by Salvadoran security forces is that the population of the refugee camps within the country is almost entirely composed of women and children. For example, a camp housing about a thousand persons near San Salvador that was visited by the Americas Watch in June, 1983

had only 8 or 9 adult male residents. All of them were either old or handicapped. The rest of the population consisted of adult women (about twenty per cent of the population) or young children (about eighty per cent of the population). Most of the residents of the camp had been there for about a year. They had no prospect of resuming normal lives.

Though this camp* is particularly well managed, and indeed is regarded as something of a model refugee camp, to the other privations of refugee camp existence must be added the problem of family disruption. The residents of this camp are cut off from their husbands, fathers, and adult or adolescent male children. The males, wherever they are, are cut off from their wives, mothers and children.

A disproportionate number of the Salvadorans who have fled to the United States and to other countries are males. Abandoning their families, the adult males can more readily evade border restrictions to get into other countries. As they might be suspected of being guerrillas by the Salvadoran armed forces, and dealt with accordingly, they cannot survive except by fleeing the country.

Though murder, disappearances and torture necessarily predominate in discussions of human rights abuses in El

*Campo Betania operated by Medecins du Monde, a French organization, near the town of Zaragoza.

Salvador, the suffering caused by the disruption of family life for a large proportion of the population also reflects a grievous abuse of human rights.

Those who provide relief services to displaced persons in El Salvador appear to be particular targets for political violence. One victim is Dr. Angel Ibarra, the director of medical services in the displaced persons camps operated by the Lutheran Synod of El Salvador. He was abducted by the National Police on April 26, 1983 (the day before President Reagan made a nationally televised speech to a joint session of the U.S. Congress calling for more assistance to the armed forces of El Salvador) along with Rev. Medardo Gomez, the head of the Lutheran church in El Salvador. They were abducted on the road to the San Salvador international airport after taking two visitors from Norway there. In the facilities of the National Police, Dr. Ibarra was tortured by electric shocks to his feet and eardrums, his shoulder was dislocated and he apparently also suffered internal injuries. Pastor Gomez was released three days later, but Dr. Ibarra remains in Mariona Prison at this writing. His whereabouts had not been acknowledged for several days until he was located by the International Committee of the Red Cross.

One possible explanation for what happened to Dr. Ibarra is that he had met with medical groups from other countries that had visited El Salvador earlier in 1983 and had reported on conditions in the displaced persons camps.

Another victim of a similar incident is Wilfredo Amaya, regional director of CARITAS, the Catholic Church relief agency. CARITAS provides assistance to displaced persons in El Salvador. Amaya was abducted by several armed men - some in uniform, some in civilian clothes - on May 4, 1983 and tortured by the National Police. He was released on May 9.

Repression Against the University

A major abuse by the Salvadoran government in the past few years involves the persecution of faculty, administrators, and students of the University of El Salvador, culminating in its outright closing since June 1980 and the destruction of buildings and property.* During this certification period, and as a part of its effort to promote peace and improve human rights performance, the government took steps to restore the University to its autonomous authorities, including putting them in possession of its records, its property and its buildings. Classes were expected to resume in 1983. Unfortunately, these welcome steps, were accompanied by continued persecution of the academic community.

The Asociacion General de Estudiantes Universitarios Salvadoreños (AGEUS), the student union, announced the abductions of two engineering students on May 18 and 19, of a graduate student in International Relations at the Law School on June 9, and of two agronomists of the School of Agricultural Sciences and one employee of the School of Chemistry and Pharmacy on June 13. AGEUS also complained

*See: Eric Stover and Kathie McCleskey, eds., Human Rights and Scientific Cooperation: Problems and Opportunities in the Americas, AAAS Workshop Report, Washington, D.C. 1981, pp. 55-62.

that two other administrative workers, a Law Professor, and two Professors of Medicine were still missing following their abductions.*

During our stay in El Salvador, another abduction took place. On June 28, heavily armed civilians, identifying themselves as members of the Armed Forces, arrested Lic. Ricardo Ernesto Calderon, the Secretary General of the University of El Salvador, at his home in San Salvador. The University published a paid advertisement demanding his release (La Prensa Grafica, June 29, 1983). The next morning, the government announced that Lic. Calderon was under arrest and investigation for subversive activities. As of July 12, no charges had been brought against him and he remained incomunicado. Lic. Calderon had been one of the 20 academics and students arrested on February 10, 1981, when uniformed army troops burst into a meeting of the University's governing body. They spent three months in prison, although shortly after their arrests, then President Duarte and told reporters that the raid had been made because the security forces believed an FDR meeting was in progress.**

*El Mundo, June 23, 1983

**AAAS Clearinghouse Report on Science and Human Rights, Washington, D.C., May 1981.

The Amnesty Law

On May 4, 1983, the Salvadoran Assembly issued Decree No. 210 called the Law of Amnesty and Citizen Rehabilitation. This statute declared an amnesty for certain political crimes committed by civilians, whether under prosecution or not. The Military Judge of First Instance is empowered to decide which political prisoners are to benefit from the amnesty, either ex-officio or at the request of the defendant or convict, or at the request of any other person. In practice, all cases of political crimes were submitted to that Court. By June 24, 533 political prisoners had been released. Fewer than 200 of those confined prior to May remained in prison.* The trade unionists linked to FENASTRAS and STECEL (National Federation of Workers and Electrical Workers Union respectively) were among those formally denied the amnesty, however. They remain in prison. In addition, about one hundred new prisoners were confined in May and June.

In amnesty proceedings, prisoners were not assisted by counsel, and had no right to appeal. The statute established guidelines in Act 3, paragraph B. Amnesty applies to persons charged with political crimes punishable with no more than four years in prison, and who have been in detention for at least six months. Although the latter condition is not explained in the text of the statute, presumably it relates

*Interview, Dr. Ricardo Arbizu, June 29, 1983.

to the 180 day period of detention for investigation established in Decree 507. Many observers have told us that decisions to grant or deny amnesty have not followed the guidelines in the statute. For example, female political prisoners who have been incarcerated for more than 180 days but less than one year were not amnestied.

The law is also intended to cover persons who voluntarily come forward seeking its benefits before July 16 and who are not under arrest. As of June 29, 1983, 124 individuals had been processed.* The Americas Watch had the chance to interview 15 young men who had recently arrived from Morazan. They claimed to have had no participation in FMLN activities other than sporadic meetings to discuss the political situation. They said that they sought amnesty, however, because they heard the Army was looking for them.

We interviewed two of the three members of the Amnesty Board created by Decree No. 210. Its chairman, Dr. Ricardo Arbizu, represents the Peace Commission; another lawyer, Dr. Kirio Waldo Salgado, represents the governmental Human Rights Commission. The third member, who was not available to meet with us, is Monsenor Freddy Delgado, appointed to the Board as the representative of the Ministry of Interior. The Board has designated agents throughout the country to whom persons

*Ibid.

may turn themselves in. They include civilian as well as military authorities. In most, if not all cases, however, individuals coming to the Board have done so through the military, particularly after a battle in their area. Dr. Arbizu told us that most of the 124 had been guerrilla "collaborators," although he said that some had been combatants. Though they are generally well treated during the 4 or 5 days that they spend in custody of the Army, they are subject to intense interrogation. Once in San Salvador and under the protection of the Amnesty Board, they are offered shelter, documentation and basic human services. Most of them request exit documents to travel to other countries as refugees. Ninety-eight of the 533 former political prisoners have also visited the Board with similar requests and others have left the country on their own.

Although the law itself was received with a certain skepticism upon publication, it is obvious that, at least insofar as the release of political prisoners is concerned, it has had a very beneficial effect. Unfortunately, even that has been marred by Salvadoran security forces. On May 8, only a few days before the amnesty law was to enter into force, two prisoners who had been released from Mariona prison after judicial dismissal of charges against them, were arrested by security forces, together with eight others, and shot. The two former political prisoners at Mariona who were among those murdered were Manuel de Jesus Orellana Moran, 24,

and Pedro Antonio Chamul Montano, also 24. Their bodies were found in a garbage dump near the Mariona prison gates where they were found by the International Committee of the Red Cross. Two of the ten men survived and told the story to foreign correspondents.*

Not surprisingly, when the first applications of the amnesty law were announced a few days after these killings, prisoners refused to leave Mariona and the women's prison unless international observers gave assurances about their safety. Statements by Monsenor Delgado, who is also a member of the government's Human Rights Commission, contributed to the prisoners' fears. On June 22, he told a UPI correspondent that around 100 of the released prisoners and some other amnesty beneficiaries had already rejoined the guerrillas.** Since no names were given, these words had the effect of making every beneficiary a suspect. The Amnesty Board subsequently helped matters by saying they were not aware of any case in which a beneficiary had gone underground, and had no way of knowing of any such thing.

Also during June 1983, Pablo Torres, a Catholic catechist from the Santiago de Maria parish was abducted and

**A Reporter's Notebook: Salvadoran Death Squads Strike Again," by Lydia Chavez, The New York Times, May 16, 1983.

**Diario de Hoy, June 23, 1983.

and his corpse was subsequently discovered. In a homily, Archbishop Rivera noted that Torres had been imprisoned in 1981 for his religious work and had benefitted from an earlier amnesty.*

*Proceso, June 6-12.

Decree 507

As stated previously, in the last few weeks, the Salvadoran government has released some 533 political prisoners. Most of those prisoners had been in jail for over one year without sentences, and often without charges. They were held pursuant to Decree 507, a statute passed in 1980 which was the subject of extensive analysis in our first Report.*

The military courts created by Decree 507 provide no semblance of due process to defendants brought before them. They are empowered to keep persons in prison arbitrarily for prolonged periods, either "under investigation" or under security measures, even after finding them innocent (Articles 6 and 7).

The dubious "legality" of Decree 507 is used to justify abusive treatment of prisoners. Dr. Cestoni, Secretary General of the governmental Human Rights Commission, told us that efforts to locate detained persons in the days following the arrest are made more difficult by the fact that the security forces do not need to report such arrests to the military judge until 15 days after the arrest is made.**

*Report on Human Rights in El Salvador, Americas Watch and the American Civil Liberties Union, January 26, 1982, pages 81-7; 91-105; and Appendix III.

**Interview, June 29, 1983.

Actually, Article 4 states that the case must be brought within 15 days, but that the military judge must be notified within twenty-four hours. Dr. Cestoni, and evidently all judicial and police authorities in El Salvador, understand this clause to mean that in the course of the 15 day period, security forces are not obliged to acknowledge an arrest. This astonishing construction of the relatively plain terms of the statute provides security forces with a period of legalized abduction during which detainees are subject to coercive interrogation and torture with no judicial supervision. In fact, we learned that Col. Lopez Nuila, the head of the National Police, was recently asked by foreign correspondents if he didn't think that fifteen days was an unusually long period to hold prisoners incommunicado for interrogation. His reply was: "If they (the prisoners) can take it, we can take it." Lopez Nuila is one of the members of the government's Human Rights Commission.

The fact that Decree 507 remains in effect as the legal instrument governing judicial procedures against political and related offenses, negates many of the improvements brought about by the amnesty program. Indeed, Mons. Delgado, a member of both of the official Human Rights Commission and the Amnesty Board (where he represents the Ministry of the Interior) was quoted recently as saying that Decree 507 might soon be repealed, since it is "no longer necessary." Although we would like to see it repealed for more

substantial reasons, including the fact that on its face it violates the Salvadoran Constitution and every international standard of due process, we are encouraged to see that high government officials contemplate repealing Decree 507, and we hope this is done as soon as possible.

Aerial Attacks On Civilian Noncombatants

El Salvador has ratified the four Geneva Conventions of 1949 and, accordingly, has committed itself, "in the case of armed conflict not of an international character" to protect all "persons taking no active part in the hostilities."* Though the Geneva Conventions recognize that, "The presence of a protected person may not be used to render certain points or areas immune from military operations," established principles of the law of war require that efforts should be made to minimize the harm that is inflicted on civilian noncombatants.

We recognize, of course, that the nature of the war in El Salvador, in which front lines are rarely established and in which both guerrillas and Civil Defense members who are part of the armed forces of the government mingle with the civilian population, makes it unusually difficult to minimize the harm to civilians. That does not, however, relieve the opposing forces of the duty to make the effort.

In our view, the manner in which the armed forces of El Salvador have used Cessna A37B Dragonfly aircraft indicates that they are not making an effort to minimize the harm to civilians. Indeed, it appears that when this plane is used

*Article 3, Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.

against FMLN "controlled zones," no attempt is made to distinguish between military and civilian targets.

The Salvadoran armed forces possess six A37s that were supplied to them by the United States. Designed for counterinsurgency operations from short unimproved airstrips, the A37s carry 500 pound bombs or 2.75 inch rockets in four pods of seven rockets. In addition, they are equipped with a 7.62mm minigun on the forward fuselage. Following a battle in February at the town of Berlin during which the Red Cross facility was bombed by an A37, Archbishop Rivera y Damas accused the Salvadoran armed forces of "indiscriminate bombing."*

In a series of articles in The Dallas Morning News in March, a journalist trapped in FMLN controlled territory fleeing advancing government troops described the indiscriminate manner with which the A37s were used against civilians and combatants alike:

The morning of the same Friday an Arava reconnaissance plane spotted a late coming group of several hundred masas, the civilian support group, and accompanying militiamen from Guazapa as they crossed the Sucio River and

*"U.S. Planes Have Doubled-Edged Effort In Salvadoran War," Edward Cody, The Washington Post, February 15, 1983.

struggled up the steep embankment to the village of Tenango, a few miles south of Pepeishtenango. A37 and Ouragan attack jets hammered them for hours, a spectacle we witnessed from the vantage of our hilltop. The bombardment from strafing killed or wounded roughly one hundred elderly, women and children, dazed survivors later said. One militiaman died.*

The publications of some private human rights groups in El Salvador frequently contain descriptions of mass killings of civilians resulting from aerial bombardments by A37s.** It is not possible for us to determine in particular cases whether such killings as may have taken place are a consequence of efforts to strike at military targets, or whether these are a consequence of deliberate terror raids against civilians in FMLN controlled zones, or whether these are a consequence of what Archbishop Rivera y Damas referred to as "indiscriminate bombing" at Berlin. What is clear to us is that the Salvadoran armed forces kill many times as

*Series of articles by Michael J. Luhan, Dallas Morning News, March 9-13, 1983.

**See, for example, the publication of Socorro Juridico Cristiano, Solidaridad, Nos. 9,12 and 14 in 1983.

many civilians as guerrillas even when they use weapons with which it is possible to be very discriminating. Accordingly, when they are equipped with weapons of mass destruction such as the A37, it would be remarkable if they complied with the principles of the law of war that require that they try to minimize the harm to civilian noncombatants.

On May 20, 1983, the U.S. Department of State issued a statement denouncing the Soviet Union for bombing raids that had produced a great many civilian casualties in Afghanistan. The State Department said that "such a massive and ruthless assault on people who are, for the most part, without any means of defending themselves is intolerable by any standards of civilized behavior." The statement went on to say that, "We cannot stand silently by and witness this slaughter."*

There are differences between Afghanistan and El Salvador that include the fact that, in Afghanistan, it is Soviet pilots who are bombing Afghan civilians while in El Salvador it is Salvadoran pilots bombing Salvadorans. Even so, the bombing in El Salvador is taking place in U.S. supplied planes by U.S. trained pilots. In both places, the great majority of the victims appear to be civilians without

*"U.S. Says Soviet Bombs Civilians in Afghanistan," Bernard Gwertzman, The New York Times, May 21, 1983.

any means of defending themselves. Accordingly, we call on the U.S. Department of State to conduct a public investigation of the consequences of the A37 raids in El Salvador to determine whether the United States should "stand silently by and witness this slaughter," particularly in circumstances where the United States has provided the instrument of slaughter.

Human Rights Violations by the Guerrillas

The Frente Farabundo Marti de Liberacion Nacional (FMLN) and its political ally, the Frente Democratica Revolucionario (FDR), are not merely an opposition force challenging the Salvadoran government but have achieved the status of a non-governmental entity that controls population and territory and, thereby, acts as a quasi-government. Accordingly, we hold the FDR-FMLN to the same standards of responsibility to which we expect governments to adhere. In this update, therefore, we have attempted to gather reliable information on allegations of human rights violations by the FDR-FMLN, and we have initiated the process of making our concerns about abuses known to its leaders.

Allegations against the FMLN consist of killing civilians, forceful recruitment of youngsters, and execution of soldiers taken prisoner after battle. We deal separately with these topics.

Tutela Legal tabulated political murders of civilians by the guerrillas during the previous certification period as follows:

1982

July	0
August	0
September	5
October	4
November	3
December	<u>8</u>
	20

Tutela Legal tabulated political murders of civilians by the guerrillas during the current certification period as follows:

<u>1983</u>	
January	7
February	13
March	6
April	6
May	7
June	4*
	<u>43</u>

According to Tutela Legal, most killings of civilians by the FMLN take place in the course of attempts to stop buses on the highways. Sometimes members of the Armed Forces riding them force the drivers to try to break the roadblock set up by the guerrillas, and in the ensuing fire, civilian passengers are killed.** We agree with Tutela Legal that these deaths are the responsibility of the FMLN, and we call on them to end to this practice.

A smaller number of these murders, seem to be executions of civilians deemed to have collaborated with the Army in repressive actions. We are told by Tutela Legal that, although some cases still occur, this practice was more prevalent in 1982. We are unaware of any procedure conducted

*In addition, Tutela Legal recorded two abductions of civilians by the guerrillas during June.

**Interview, Maria Julia Hernandez, June 27, 1983

to determine guilt or innocence. Regardless of whether any attempt at judicial process was employed, we believe that executions carried out in this manner violate the right to life.

A somewhat different political murder occurred during the Americas Watch visit to San Salvador to gather information for this report. On the morning of June 28, Rene Barrios Amaya, a member of the National Assembly for the ARENA party, was shot by a group of people who intercepted his car as he was leaving his home. He was unarmed and had no bodyguards. The Fuerzas Populares de Liberacion (FLP), one of the FMLN constituent groups, claimed responsibility for the murder, as for other violent actions committed in San Salvador the same day.

Forceful recruitment

It is charged that when FMLN forces capture a town, they force young men to join their ranks. Television advertisements aired by the Salvadoran government show mothers pleading for the release of their children. Mons. Gregorio Rosa Chavez, auxiliary bishop of San Salvador, accused the FMLN of this practice in the course of a homily on June 26. Through independent sources, the Americas Watch has ascertained that such recruitment does occasionally take place in areas controlled by the FMLN. We also heard that, in at least some cases, these actions were later reversed and the young men were allowed to return to their homes.

Execution of Soldiers

The FMLN has a longstanding policy of returning POW's through the good offices of the International Committee of the Red Cross (ICRC). Since early May, however, the Salvadoran guerrillas have been responsible for a number of incidents in which soldiers who had surrendered were summarily executed.

The first incident took place in Cinquera Cabanas on May 5 where guerrillas were said to have executed 16 members of the local Civil Defense.* After an initial denial, a representative of the FDR-FMLN said in Washington in late June, that after a severe battle for the control of the hamlet, government forces had attempted to cover themselves by forcing the civilian population to remain in the path of fire. When the battle ended, the spokesman said, and at the demands of the civilian population, the FMLN commander ordered the execution of five civil defense members who had surrendered.

The second incident received a lot of press attention, because the U.S. Embassy, U.S. military advisors, and the State Department issued the initial reports. AW obtained copies of the declassified communications from the DOS and photographs of corpses from the Public Affairs officer at the U.S. Embassy in San Salvador. We also talked extensively with foreign correspondents who attended the briefings and conducted on-site investigations.

*Some reports put the number at 14; others at 18.

According to U.S. military advisors, on May 25 soldiers were executed after they surrendered to the FMLN in the course of a long battle for control of a bridge on the Pan American Highway at a place called Quebrada Seca, Dept. of San Vicente.* Evidence of execution-like shooting (i.e. powder burns from shooting at close range) was present on some bodies. U.S. military advisors acknowledged that some of the 42 soldiers who were killed there had died in the course of combat. Even the presence of power burns is not conclusive, of course, since the battle at times seems to have been fought at close quarters. However, we were informed that some nine of the soldiers killed had been shot between the eyes, indicating that they had been executed. Although three or four survivors escaped, no direct eye-witnesses have been interviewed to our knowledge. Experienced foreign correspondents became convinced, after interviewing soldiers who arrived there some hours later to find the bodies, that some executions did take place in Quebrada Seca. In denying that these events took place, the FDR-FMLN points to the fact that three soldiers were taken prisoners as a result of that battle and were later released through the ICRC.

During the Americas Watch stay in San Salvador, the Salvadoran Armed Forces invited journalists to a morgue to

* Washington Post, June 1, 1983

inspect corpses of soldiers found near Suchitoto. The government claimed they had been executed after their surrender. Journalists we spoke to told us that, in this case, the evidence was unconvincing, since the soldiers appeared to have been shot in combat.

Subsequent to the Americas Watch visit to El Salvador, and therefore not independently checked by us in connection with this report, newspaper accounts appeared on yet another series of executions by guerrilla forces following a battle. At Nueva Grande, guerrillas are said to have executed either 8 civil defense members, according to Radio Venceremos, or 5, according to townspeople.*

We condemn those responsible for the executions that we believe took place at Cinquera and at Quebrada Seca and, probably, at Nueva Grande. In addition we call on the FDF-FMLN to investigate these executions, to disclose publicly the results of their investigation, and to punish those responsible.

A victim of a somewhat different execution was Commander Albert Schaufelberger, the second ranking U.S. advisor in El Salvador. He was shot on May 25 while in his private car, waiting for a friend at the campus of the Universidad Centro Americana. The FPL claimed responsibility for the murder and

*"Salvador Rebels Kill Captive Militiamen," The New York Times, July 11, 1983.

said that Commander Schauffelberger was armed at the time, as is the practice for all U.S. advisors. In this instance, the FMLN has backed the decision by the FPL to execute Schauffelberger, and has stated that all U.S. military advisors are targets for execution as long as they remain in El Salvador.

Aside from those matters that may be defined as human rights violations, Tutela Legal reports that the Armed Forces said that 562 of their troops were killed by the guerrillas during the last certification period and that the Armed Forces said that 756 of their troops were killed during the current certification period.

The Salvadoran Government-Sponsored Human Rights Commission

Shortly before the last Certification, the Salvadoran government established an official Human Rights Commission. In our previous report, we stated that, "though the Commission has not yet undertaken significant activity, [its Director, Benjamin] Cestoni impressed an Americas Watch representative as genuinely committed to protecting human rights." At the same time, we questioned the establishment of the Commission in the building of the Fiscalia Nacional where the premises are guarded by uniformed members of the National Police and we questioned the presence on the Commission, as one of its seven governing members, of Colonel Reynaldo Lopez Nuila. As the commander of the National Police, Colonel Lopez Nuila heads a force that is implicated in many murders, disappearances and cases of torture.

Now that the Commission has operated for more than half a year, we have a better opportunity to evaluate its work. According to its Director, Dr. Cestoni, up until June 21, 1983, the Commission had handled 514 cases.* Almost all were cases in which relatives of missing persons sought assistance from the Commission in locating family members who had disappeared. Dr. Cestoni informed the Americas Watch

*Interview, Benjamin Cestoni, June 29, 1983.

that 91 cases had been resolved successfully - that is that the whereabouts of the missing person had been established, or the person had been consigned by the security forces to the courts, or the person had been freed. Only 3 of the cases presented to the Commission by relatives involved killings and, according to Dr. Cestoni, none of those cases was a killing for a political reason. A few cases also involved complaints of harassment by the security forces.

Aside from the regular flow of cases, the commission has undertaken one major investigation. That involved the February 22, 1983 massacre at Las Hojas (see pages 17-22) on which it presented a confidential report to President Magana. In addition, the Commission's Director and other representatives of the Commission give frequent talks about human rights to members of the security forces. When asked about other activities, Dr. Cestoni mentioned occasional humanitarian efforts on behalf of prisoners, noting that the Commission had arranged to bring one prisoner medication that he needed and had helped a woman prisoner obtain a bible.

Dr. Cestoni also told the Americas Watch that his office planned to issue a statistical report on July 15 (a copy was not available in time for us to use in preparing this report). Though he did not say so, the date appears to have been selected so that the information in it could be used in connection with U.S. certification the following week.

Dr. Cestoni told the Americas Watch that he had no information on prosecutions or trials for human rights violations and that his office does not follow ~~any~~ such cases.

On the basis of our discussions with Dr. Cestoni and with others knowledgeable about its work, we are persuaded that it serves a marginally useful function.

The Commission has no effect on the political murders by the Security Forces that are the central human rights problem in El Salvador. Relatives of the victims and eye-witnesses to the murders do not even go to the Commission to report what took place because the Commission does not concern itself with redress (that is with prosecutions of those responsible) nor even with publication of information about the victims and about those responsible for political murders.

The Commission does play a modest role with respect to the other major human rights problem in El Salvador: disappearances after abductions by the security forces. Assuming that Dr. Cestoni is correct in saying that the Commission successfully resolved 91 of the 514 cases presented to it in its first six months, the Commission probably speeded up notification of families of the whereabouts of family members who were abducted in a number of cases. Dr. Cestoni informed the Americas Watch that his office receives lists every 8 days from the security forces of those persons they

are holding. If a person who has been reported missing to the Commission turns up on one of those lists, the Commission informs the family. Under the interpretation of Decree 507 that is used by the Commission and by the security forces, the whereabouts of a person taken into custody by the security forces need not be disclosed for 15 days.* Accordingly, the Commission's information that a person is alive and in custody may be the first that a relative obtains.

It also seems possible that, by inquiring about a person who has been abducted with the particular security force that has carried out an abduction, the Commission may save the life of that person or mitigate the torture endured by that person.

Because the Commission sometimes speeds up the location of those who have been abducted by the security forces, and because it may help to save the lives of such persons, the various private human rights groups in El Salvador all reported to the Americas Watch that they urge the families of the abducted to contact the Commission. On the other hand, we determined that there is no ongoing cooperation between the private groups and the Commission.

It is possible that the Commission will ultimately play

*This interpretation of Decree 507 is incorrect, in our view. See pages 56-8.

a more significant role in protecting human rights than at present. To do so would require that it concern itself with determining responsibility for political killings and disappearances and with seeing to it that prosecutions and trials take place. In addition, we note that the Commission continues to be handicapped by the presence on it of Colonel Lopez Nuila which deters relatives of some victims of abuses from seeking the aid of the Commission. In addition, the activities of another member of the Commission, Monsenor Freddy Delgado, undermine the work of the Commission.

Monsenor Delgado is noted in El Salvador for slandering the private human rights groups (see page 25) and for such bizarre statements as his unfounded declaration that 100 amnestied political prisoners had joined the guerrillas (see page 54). Further indication of Monsenor Delgado's views was provided in an address he recently gave to the U.S. Chamber of Commerce in San Salvador in which he said that there are "two conceptions of human rights corresponding to two conceptions of man: the materialist, of man for man himself, and ours, Western and Christian, of man as God's creature." He went on to say that "when we talk about human rights, we mean it in our sense, and when we are accused of human rights (sic), we must interpret it in the Marxist-Leninist language, which is quite different."* Many Catholic

*Diario de Hoy, San Salvador, June 25, 1983.

leaders in El Salvador have compiled distinguished records of dedication to human rights. Under the circumstances, it reflects no credit on the Commission that the one Catholic clergyman who serves on it should be the one most noted as an apologist for human rights abuses.

Having noted that two members of the Commission are liabilities, we point out that another Commission member, Cristobal Aleman Alas, a peasant union (UCS) leader, conducted a courageous publicized investigation of the massacre at Las Hojas and has himself been threatened because of it (see pages 17-22).

Statistical Methodology

In the past, the United States Department of State and, to a lesser extent, the United States Embassy in San Salvador, have attempted to discredit reports of political murders and disappearances in El Salvador by impugning the private human rights organizations in El Salvador that collect this information. Accordingly, the Americas Watch has examined closely the methods used to collect information by the various private human rights organizations and by the United States Embassy in San Salvador. We published a report on this subject in June 1982.* Our findings at this time are consistent with those in that earlier report.

In presenting statistics here, we have chosen to rely on those assembled by Tutela Legal. We do so because, of the private human rights monitoring groups in El Salvador, it is the one that is officially sponsored by the Archdiocese of San Salvador. Moreover, Tutela Legal's reporting is extraordinarily detailed and meticulously careful. It reports on political violence from all sources, guerrilla as well as government. Having examined human rights reporting in many countries of the world, we assert that Tutela Legal exhibits as high a degree of professionalism in this work as

*"U.S. Reporting on Human Rights in El Salvador: Methodology At Odds With Knowledge"

we have seen anywhere, an accomplishment that is all the more remarkable in the dangerous circumstances in which it conducts its work.

An illustration of Tutela Legal's scrupulousness is its reporting on the massacre at Las Hojas on February 22, 1983. (See pages 17-22.) Although the massacre was widely reported around the world at the time it took place, nothing about it appeared in Tutela Legal's report for the month of February because the organization had not, at that time, obtained first-hand testimony about it from eyewitnesses or from family members. The following month, Tutela Legal obtained some testimony about Las Hojas. However, the great majority of the deaths reported in the press to have occurred at Las Hojas have never been included in Tutela Legal's statistical reports because the organization has not obtained primary source testimony on the murders.

This insistence on obtaining primary source information contrasts sharply with the practices of the United States Embassy in San Salvador. The Embassy reports to the Department of State in Washington about violations of human rights but it does not itself collect information on abuses from primary sources. The Embassy relies now, as it has in the past, on reports on human rights violations that appear in the Salvadoran press.* On numerous occasions, Embassy

*Interview, June 28, 1983.

and State Department officials have acknowledged that this reporting is deficient, but they have asserted that it has the virtue of consistency. In fact, it lacks even that virtue.

As we have pointed out in previous reports, the Salvadoran press is anything but reliable. Those newspapers that were not extreme right wing were closed violently by the security forces in 1980 and 1981. The surviving newspapers are so extreme that the Christian Democratic Party is unable to get attention to its views except by purchasing advertising.* At that, they are subject to military censorship. The Salvadoran press obtains its information on killings by telephone calls to Justices of the Peace. If all Justices of the Peace were called regularly, this method of gathering information would have the virtue of consistency. In fact, however, such calls are made haphazardly and, even when they are made, the information is not always provided.

If the Salvadoran government desires, it has a ready means of making this system of reporting consistent. All that would be required is that each of the Justices of the Peace would have to periodically report the killings in that Justice's district to a central office. The Salvadoran government has not chosen to require such centralized reporting.

*Interview, Dr. Jose Antonio Morales Ehrlich, Adjunct Secretary General, Christian Democratic Party, June 28, 1983

Even if such a system were devised, however, it would not be a substitute for the reporting that is done by Tutela Legal and the other private human rights groups that interview primary sources. It would not, for example, identify the forces responsible for killings and disappearances and it would not indicate the circumstances in which killings and disappearances take place. The U.S. Embassy's system of relying on haphazard reports in the Salvadoran press enables it to elide such matters. It is necessary to rely on primary sources, as Tutela Legal does, to know who is doing the killing and abducting and to find out how it is being done.

One healthy development, in our view, is that the personnel of the United States Embassy in San Salvador told the Americas Watch that it does not regard Tutela Legal's reports on human rights violations as distorted and that it trusts Tutela Legal's reporting. As an Embassy official informed us, "We have a very good relationship with Tutela Legal. I am having lunch with Maria Julia [Hernandez] today."* This official also told the Americas Watch that, "In spite of the Embassy's problems with Socorro Juridico, the truth is that there is no big difference between what Socorro Juridico was reporting and what Tutela Legal reports now."**

*Interview, June 28, 1983

**Ibid.

Despite the attitude towards Tutela Legal that now appears to prevail in the United States Embassy in San Salvador, the Department of State may be expected to continue to cite the haphazardly gathered information that appears in the Salvadoran press to indicate the number of political murders occurring in El Salvador.

Disciplining of Members of the Salvadoran Armed Forces for
Human Rights Violations

According to the July 27, 1982 certification, in the previous six months 109 members of the Salvadoran armed forces and "at least 20" civil defense members were disciplined and remanded to the civilian courts.

In our January 20, 1983 Second Supplement,* we demonstrated that:

- 1) at most 44 of these cases involved prosecutions for human rights violations.
- 2) that the Department of State's definition of human rights cases in referring to prosecutions was so elastic that it was not clear - how many - or even if any - of these cases involved political violence.
- 3) that no convictions had been obtained in any of these cases.
- 4) that the U.S. Embassy in San Salvador had not independently confirmed the figures which were used in the certification and, accordingly, advised the State Department that the figures should "be used with proper caveats." The certification contained no caveats.

*January 20, 1983 Second Supplement to the Report on Human Rights in El Salvador, Americas Watch Committee & The American Civil Liberties Union. See pages 67-77 and Appendices.

5) that an Embassy official informed the Americas Watch that he was trying to "spot-check" the prosecutions. The "spot-check" had not been completed at the time our report was published.

We published in our Second Supplement a December 2, 1982 letter from Assistant Secretary of State Elliott Abrams in which he advised Representative Donald Bonker that:

the Embassy is now attempting to obtain additional information on each of the cases involving persons accused of human rights violations, including the specific charges involved. As soon as this additional information is received I will be back in touch with you.*

We also published a September 27, 1982 letter from Secretary Abrams to the Americas Watch in which he wrote:

We believe it is important, however, for us to follow these cases as closely as possible, and we have requested specific information regarding their current judicial status. I will certainly share as much of this information as possible with you, and will do so as soon as possible.**

As of July 15, 1983 neither Assistant Secretary of State Elliott Abrams nor anyone else at the Department of State has provided either to Representative Bonker or to the Americas Watch the information that was to be sent as soon as possible

*Ibid. At pages 113-4.

**Ibid. At pages 96-7.

after it was obtained. Letters from Representative Bonker and from the Americas Watch to Secretary Abrams seeking this information have not been answered as of July 15, 1983. Under the circumstances, we assume that this information was not available to Assistant Secretary Abrams.

In a further effort to obtain information about the cases in which members of the Salvadoran security forces were supposedly being prosecuted for human rights violations, on June 28, 1983 the Americas Watch asked the member of the staff of the U.S. Embassy in San Salvador responsible for submitting information for the July 1983 certification for the results of the "spot check" undertaken in January 1983. He told us that he knew nothing about any such spot-check. He also told us that he could not give us information about prosecutions, but that he would be gathering the information in the next few days for the July 1983 certification and that we could call him to obtain this information. When we called the U.S. Embassy in San Salvador on July 12, this same staff member said that the information was not yet available and couldn't say when it would be available.

The January 21, 1983 certification has nothing to say about the 109 plus "at least 20" members of the security forces and civil defense supposedly disciplined during the first six months of 1982. What it does say is that in January 1983 "a total of 141 regular military personnel were under detention for abuses of authority" and that "sixteen

civil defense commanders ... [and] thirty-nine civil defense personnel are being detained for abuses of authority in nine of fourteen departments for which we have reports." The January 21, 1983 certification does not indicate how many, if any, of the 141 military personnel then in detention are the same persons as the 109 military personnel disciplined during the first six months of the previous year nor whether the 55 civil defense personnel then in detention are the same persons as the 20 disciplined during the first six months of the previous year.

What is clear to us from our review of past certifications, our correspondence with Department of State officials, our conversations with U.S. Embassy personnel in San Salvador, and our conversations with other knowledgeable persons in El Salvador is that:

- 1) no one is yet able to cite to us a single case of criminal punishment of a member of the Salvadoran armed forces for a human rights violation.
- 2) detentions for "abuse of authority" do not necessarily involve human rights violations. Very few involve detentions for politically motivated murders and disappearances and, therefore, those detentions that take place are not a response to the central human rights problem in El Salvador.

- 3) in instances when detentions supposedly take place, what may be involved may go no further than issuing a press release, as happened in the case of Captain Figueroa Morales after the massacre at Las Hojas. Though allegedly in "administrative detention" - that is confined to the base - he has not been restricted in his movements and has been given a new post. (See pages 20-21)
- 4) that though the Department of State assured Representative Donald Bonker in December 1982 that the U.S. Embassy in San Salvador then was "attempting to obtain additional information on each of the cases" cited in the July 1982 certification, this was probably never done. If any attempt was made, the current Embassy staff is unaware of it. Accordingly, the "additional information" promised to Representative Bonker was never obtained and never sent to him.
- 5) that though the State Department advised the Americas Watch in September 1982 that it was "important ... to follow these cases [cited in the July 1982 certification] as closely as possible," this was not done. Either the State Department never communicated to the

Embassy the importance of following these cases closely or the Embassy disregarded any such communication. Accordingly, the Department of State was never able to share with the Americas Watch any information about these cases as it had promised.

Our continuing review of assertions in successive certifications about the disciplining of Salvadoran troops for human rights violations leads us to the conclusion that the Department of State is engaged in flim-flam.

The Judiciary System Dodge

According to the January 21, 1983 Certification by the Department of State asserting that El Salvador has complied with the human rights conditions of the International Security and Development Cooperation Act of 1981, "The criminal justice system has not functioned effectively, particularly in prosecuting crimes associated with acts of terrorism from the violent right and left."*

A more accurate statement would be that the criminal justice barely functions at all in prosecuting crimes associated with acts of terrorism; that virtually all of the acts of terrorism committed by the "violent right" are actually crimes committed by the security forces of the government of El Salvador and, accordingly are the terrorist acts of the government itself; and that anyone suspected of association with terrorism by the violent left will almost certainly be executed summarily rather than held for criminal trial.

Even with those necessary refinements, however, the assertion that the criminal justice system does not function effectively seems to us to be used inappropriately. That is because it is offered as an excuse for the Salvadoran government's failure to end the political killings. Its use as such an excuse is made plain by the reasons that are

*At page 7.

offered. We are told in the certification document that:

The serious problems of the criminal justice system include: the disruptions caused by severe civil strife; acts of terrorism against judicial personnel and facilities; threats and other intimidation; corruption of judges and juries; poorly trained and poorly paid justice officials, especially at lower levels; inadequate police investigations; illegal use of public law enforcement agents for private interests; and rules of evidence and procedures which tend to discourage successful prosecution.*

Most of these criticisms are valid. However, they are no excuse for the failure to end political murders by the Salvadoran security forces. To the extent that the deficiencies of the criminal justice system are used as an excuse for the failure to end political murders, the State Department is using a dodge.

The main reason that the political murders by the Salvadoran security forces continue is that the high command of the security forces lacks the will to end them. If the will were present, the high command could quickly make its wishes clear and it could readily assert its authority to end virtually all abuses.

Political killings take place because:

- the high command of the armed forces knowingly

*Ibid.

encourages its troops to kill civilians in villages that are suspected of having aided the guerrillas, or in villages that are suspected of sympathizing with the guerrillas, or in villages that are suspected of not disclosing the whereabouts of guerrillas.

- the high command of the armed forces knowingly encourages its troops to use tactics that are designed to terrorize villagers so that they fear to permit guerrillas to operate in their vicinity.
- the high command of the armed forces knowingly encourages the formation of death squads that abduct and kill those suspected of being political dissidents.
- the high command of the armed forces has knowingly refrained from promulgating and implementing policies that will insure that prisoners will be taken and that they will be treated in accordance with the Geneva Conventions dealing with armed conflicts not of an international character.

The persistence of these practices, and lack of will to end these practices, means that these practices are the policy of the Salvadorean armed forces.

One reason that it is a dodge to use the deficiencies of the criminal justice system to explain the failure to end political murders is that it is made to seem that those deficiencies will take many years to overcome. Accordingly, the persistence of political killings may be explained away despite the requirement in the law governing certification that "the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces." If the blame were placed where it belongs - that is, on the policies of the Salvadoran armed forces - it would be more difficult for the State Department to pretend that the requirements of the certification law are being met.

PREPARED STATEMENT OF MICHAEL POSNER, EXECUTIVE DIRECTOR, LAWYERS
COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS, NEW YORK, N.Y.

Mr. Chairman, thank you for inviting me to testify. My name is Michael Posner. I am the Executive Director of the Lawyers Committee for International Human Rights in New York. For more than 2½ years the Lawyers Committee has served as legal counsel to the families of the four United States churchwomen who were murdered in El Salvador in December 1980. My comments today reflect the families' continuing frustrations over the failure of the Salvadoran Government to properly investigate and prosecute those responsible for this horrible crime, and their growing concerns about our own government's ineffective response to these failures.

Earlier this month I visited El Salvador on behalf of the four families. I was accompanied by Scott Greathead, a member of the Lawyers Committee Board of Directors. While in El Salvador, we met with a number of Salvadoran Government officials, including Dr. Mario Adelberto Rivera, the Fiscal General (Attorney General) of the Republic, and Bernardo Rauda Murcia, the presiding judge in the case. We also met with private lawyers and experts on the Salvadoran legal system, as well as United States Embassy officials.

Based on our visit, we seriously question the conclusions contained in the State Department's recent certification report on El Salvador. While that report concludes that "the Government of El Salvador appears to have made a conscientious effort to prosecute these murderers," we believe that the Salvadoran prosecutors have yet to take basic steps necessary to preparing a successful prosecution. While the State Department concludes that "the Salvadoran Government is making good faith efforts to bring to justice those responsible for the [churchwomen's] deaths," we continue to find a disturbing pattern of official indifference, incompetence and ill-will—attitudes that prevent successful resolution of this case.

INADEQUACY OF SALVADORAN PROSECUTORS

Based on our discussions with the prosecutors handling the churchwomen's case, we believe that they lack both the will and the ability to successfully prosecute those responsible for the murders. Seven months ago, during an earlier visit, we first learned that the Fiscal General of El Salvador was unaware of key evidence developed by and in the possession of the FBI—including a death threat against the church in Chalatenango, where two of the churchwomen worked. According to officials in the U.S. Embassy in El Salvador, this death threat had eight clearly identifiable sets of fingerprints on it. The prosecutors have little interest in obtaining this and similar evidence, and are doing little to ensure that existing evidence will be admissible at trial. For example, they have done nothing to introduce into the court record a thumbprint of Colindres Aleman, the ringleader of the five imprisoned National Guardsmen. This print was taken from the van in which the women were riding on the night of their murder. Because the FBI, and not Salvadoran authorities, conducted the fingerprint analysis, this evidence is not now admissible.

In our visits to El Salvador, we have also learned that the prosecutors have made no apparent effort to develop a plausible theory as to the motive for the crime or a response to anticipated defenses. Although the Fiscal General conceded that "acting on higher orders" is likely to be a defense, he makes it clear that he does not intend to investigate existing evidence suggesting there were superior orders to apprehend the churchwomen.

During our most recent visit last month, we found that the prosecutors have done almost nothing in the past 6 months to advance the case to trial. Virtually the only preparation that has been done has been the result of U.S. initiative and action, such as the appointment of Judge Harold Tyler to help identify evidentiary leads and the FBI's replication in El Salvador of ballistics tests it had previously conducted in the United States. Similarly, last weekend the State Department and the FBI brought a key witness to El Salvador, Dagoberto Martinez Martinez, who had previously given important testimony to the FBI in Los Angeles which was inadmissible until it was repeated in El Salvador. However, only the Salvadoran prosecutors responsible for the case can effectively use the evidence developed by the FBI, Judge Tyler and others. Those now assigned to the case are clearly incapable of doing so.

The complete indifference of the Fiscal General's office to the success of the case is reflected in its present staffing arrangement. Almost all of those working

on the case are law students. While in El Salvador, we were reliably informed that one of those students, Bachiller Leonel Romero Cordero, has been acting as a coordinator of the case despite the fact that he was once removed from office for accepting a bribe from the defense attorney in connection with a trial he helped prosecute.

THE NEED FOR A SPECIAL PROSECUTING ATTORNEY

Mr. Chairman, I could go on at length cataloguing the deficiencies that have marked the Salvadoran Government's handling of the churchwomen's case.¹ However, anything else I or anyone familiar with the case could tell you simply adds weight to what is now an inescapable conclusion: Because of the prosecutor's unwillingness to conduct a proper investigation or to adequately prepare for trial, it remains unlikely that anyone will ever be successfully prosecuted for these crimes. Rather than belabor a point that has become obvious—and indeed was evident when I testified six months ago during the last certification hearings—I would like to suggest one important step that can be taken to break the perpetual cycle of inaction that has prevented this case from moving forward.

Mr. Chairman, I strongly urge you and the members of this committee to support the appointment of a special prosecutor by the Government of El Salvador. This week, Senators Leahy, Lautenberg and Sasser introduced a Senate resolution calling on the U.S. Government to urge the Salvadoran Government to make such an appointment. I have a copy of that resolution which I ask be inserted in the record of these hearings. I understand that a similar resolution is being introduced in the House. The families and I very much welcome this initiative because we think that the appointment of a special prosecutor is essential to successful resolution of this case.

Working with the full authority of the Government of El Salvador behind him, a special prosecutor would be in the best position to ensure that the case is properly investigated and tried. Without a special prosecutor, we seriously doubt that a proper investigation and successful trial will ever take place.

The appointment of a special prosecuting attorney in this case would also serve as a symbolic acknowledgment by the Government of El Salvador that it intends to prosecute those who are responsible for the murder of innocent civilians, even in cases where members of the armed forces are involved. In this respect, such an appointment would represent an important step toward curbing abuses by members of government security forces who, according to the recent certification report, presently "act without fear of official reprisal."

The churchwomen's case may provide the only opportunity to begin to address the problem of unrestrained violence perpetrated by government security forces in El Salvador. During the last 3½ years, when 35,000 innocent civilians, including El Salvador's archbishop, have been killed, only the cases of murdered Americans have been pursued; only the churchwomen's case is currently being pursued with any real hope of success.

Accordingly, the demand to fix responsibility in this case has become part of a far wider demand that elementary respect for human rights and human life be restored and recognized by those who wield the force of government in El Salvador. In view of the symbolic importance this case has assumed, the consequences of a failure to reach a just conclusion would resound far beyond the halls of Judge Rauda's court. We cannot afford the price of further violence that will be exacted if we fail to do everything in our power to achieve justice in this case. Those in the armed forces of El Salvador must begin to recognize that they can no longer systematically violate the rights of innocent civilians confident that the civilian government will never impose sanctions against them.

THE ROLE OF THE U.S. GOVERNMENT

Congress has recognized the importance of meaningful progress in the churchwomen's case as a means of advancing justice and checking unrestrained violence in El Salvador. Unless such progress can be shown, the certification law therefore prohibits further United States aid to El Salvador.

The Administration's repeated certifications that the Government of El Salvador has "made good faith efforts" to investigate the churchwomen's case and

¹ I attach as an appendix a letter that Scott Greathhead and I recently sent to Assistant Secretary of State Langhorne Motley summarizing our most pressing concerns about the investigation and prosecution, and ask that the letter be admitted into the record of this hearing.

to "bring to justice all those responsible" for their murders has made a mockery of that law. By endorsing the totally unacceptable efforts of Salvadoran officials, this certification has also sent an unmistakable signal to the Government of El Salvador: No matter what happens—or fails to happen—in the churchwomen's case, the United States will continue to provide the certification necessary to continue the flow of aid to El Salvador. The Salvadoran Government cannot doubt this when our government certifies progress in the case even while it acknowledges the hopelessness of obtaining a successful resolution:

Convictions in serious criminal cases, in particular those with political overtones of any kind, are virtually unobtainable. . . .

Nor can there be any doubt that the Administration's determination to "certify at all costs" has destroyed our ability to promote the churchwomen's case in particular or respect for life generally in El Salvador. Privately, Salvadoran officials repeatedly note that they do not believe the United States will cut off aid regardless of what human rights violations are committed in El Salvador.

This perception destroys any incentive on the part of the Salvadoran Government to promote respect for human life. The Government of El Salvador is essentially a military government. Our capacity to influence that government's respect for human life is thus limited to our ability to condition military aid on a demonstrated commitment to promote human rights.

CONCLUSION

In conclusion, I believe that there are concrete steps our government can take to promote progress in the churchwomen's case and, by doing so, to help restore respect for human life throughout El Salvador. First, the incompetence, indifference and ill-will, that have been characterized the prosecutors' handling of this case make it imperative that a capable, independent special prosecutor be appointed by the Government of El Salvador. Congress has the opportunity to make an immediate, urgently needed, and significant impact on the progress of this case by adopting the resolution urging the United States to call upon the Government of El Salvador to make such an appointment.

Second, our expressions of concern must ultimately be coupled with a credible threat to terminate U.S. aid if the Government of El Salvador fails to take concrete steps to end human rights abuses. This administration's cynical, automatic certification of Salvadoran "good faith" has led to disastrous results: it has destroyed any incentive for the Government of El Salvador to control the abuses of its security forces, and it has weakened our international reputation and credibility. Congress must not abandon this opportunity to use the leverage and moral authority of the United States to pressure Salvadoran leaders to bring to justice those responsible for the murders of U.S. citizens and 35,000 other civilians. Therefore, Congress should make it clear that the Government of El Salvador will not receive further arms and money if it continues to flout minimum standards of human rights.

RESOLUTION Relating to Justice in the Case of the Slain American Churchwomen in El Salvador

Whereas on December 2, 1980, four United States citizen churchwomen were murdered in El Salvador;

Whereas the certification law (Public Law 97-113) requires that the Government of El Salvador make "good faith efforts both to investigate the murders . . . and to bring to justice those responsible for those murders" before aid to El Salvador can continue;

Whereas the Administration's current certification report admits to "disappointing progress" in the case and concedes a "virtual breakdown in criminal justice" in El Salvador;

Whereas the prosecution of those accused of the murders of the four American churchwomen has been plagued by consistent neglect, professional incompetence, and a steadfast unwillingness to enforce Salvadoran law; and

Whereas, the vigorous prosecution and effective trial of those accused of murdering the four churchwomen will promote criminal justice throughout El Salvador and encourage similar efforts to pursue the murderers of other American citizens, Salvadoran Archbishop Oscar Romero, and tens of thousands of Salvadoran civilians: Now therefore, be it

Resolved, That it is the sense of the Senate that the United States Government shall call upon the Government of El Salvador,

(1) To appoint a special prosecuting attorney to oversee the comprehensive investigation of those responsible for murdering the four American churchwomen and to prepare a thorough and effective prosecution against them, and

(2) To assure the United States Government that those accused shall be brought before a jury trial by December 2, 1983.

THE LAWYERS COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS,
New York, N.Y., July 14, 1983.

HON. LANGHORNE MOTLEY,
Assistant Secretary of State,
Department of State,
Washington, D.C.

DEAR AMBASSADOR MOTLEY: As counsel for the families of the four American churchwomen who were assaulted and murdered in El Salvador on December 2, 1980, we write to express our present concerns about the status of the investigation of the murders. During the week of July 4, we visited El Salvador, as we have on two previous occasions since August 1982, to inquire into steps being taken by Salvadoran authorities to investigate this crime and prosecute those who are responsible for it. As you know, five former National Guard enlisted men were arrested in May of 1981, but have yet to be tried.

During our latest visit, we met and discussed developments in the case with Fiscal General, Dr. Mario Adalberto Rivera, and members of his staff; with the presiding judge, Dr. Bernardo Rauda Murcia; with Kenneth Blakely and James Mack at the U.S. Embassy in San Salvador; with private Salvadoran lawyers; and with others knowledgeable about the case.

On the basis of our visit, we continue to be deeply concerned that no one will ever be successfully prosecuted for these crimes. More than two-and-one-half years after the murders, the Salvadoran prosecutors still have not completed a number of basic investigative steps that are critical to a successful prosecution in this case. Moreover, in the six months since we last visited El Salvador, the prosecutors have done almost nothing to advance the case properly to trial. It is now unlikely that a trial will occur before 1984.

While in El Salvador we suggested, as we have in the past, that appropriate steps be taken to gather the following essential evidence:

(i) *The statement of Dagoberto Martinez Martinez.*—Martinez was the superior officer of Subsergeant Colindres Aleman, the reputed ringleader of the guardsmen who have been accused of carrying out the crime. According to a sworn statement by Martinez, given to the F.B.I. in Los Angeles, California on February 9, 1982, Colindres Aleman confessed to him in December, 1980, shortly following the crime. We have been informed by the Fiscal General and other Salvadoran lawyers that the testimony of Martinez will not be admissible as evidence in the trial unless he is examined in El Salvador before the presiding judge. The importance of this confession as evidence is underscored by the fact that the case against Colindres Aleman is at this time only circumstantial. The judicial record contains no admissible evidence directly linking Colindres Aleman to the murders of the four women. We understand that Martinez' whereabouts in California are currently known to the F.B.I., and that he has applied for political asylum in the United States. We believe that the United States government is in a position to arrange for his examination in El Salvador by Salvadoran authorities and that this is essential to a successful prosecution. Despite this, when we met with him, the Fiscal General of El Salvador displayed no interest in obtaining this key evidence.

(ii) *Colindres' thumbprint on the burned-out van.*—A second piece of evidence that would directly link Colindres to the murders is his thumbprint, which was located by the F.B.I. on the burned-out van in which the four women were riding. According to the Fiscal General, this and other technical evidence developed by the F.B.I. cannot be admitted as evidence in the Salvadoran proceedings unless the tests are successfully duplicated by Salvadoran authorities. The Fiscal General told us that the van has been exposed to the wind and weather since the crime, and that the thumbprint is presumed to have been washed off and lost. Immediate steps should be taken to inspect the van to determine whether in fact the thumbprint has been lost. If this is the case, the Fiscal General should make a further effort to persuade the court to admit the F.B.I. fingerprint test as evi-

dence against Colindres. In our meeting with him, the Fiscal General declined our requests to take either of these steps.

(iii) *The testimony of Guardsman Cesar Valle Espinoza and others concerning the existence of higher orders.*—Valle Espinoza has testified that on the evening of December 2, 1980, Colindres Aleman stated to him that he was acting under "superior orders" to apprehend the four women. Valle's testimony names two other Guardsmen who were with him and should have heard Colindres' statement. Virtually every Salvadoran lawyer with whom we have spoken has told us that the most likely defense of the five accused would be that they were acting under the higher orders of others who have not been charged. It thus becomes essential to fully investigate this issue, in order to refute the defense or, if it is established that others were involved, to bring appropriate charges. To date, the Fiscal General has refused to investigate this issue or make any effort to prepare for this likely defense. As we have suggested to him repeatedly, he could begin by examining the two guardsmen who were with Valle and should have heard the statement by Colindres, and by re-examining Valle concerning the details of what he heard.

(iv) *Testimony of Guardsman Perez Nieto.*—The prosecutors should also re-examine Margarito Perez Nieto, a member of the Salvadoran National Guard who was also stationed at the airport on December 2, 1980. In his testimony last year, Perez Nieto stated that he had seen two suspicious-looking women at the airport on the afternoon of December 2. (The two women were apparently Jean Donovan and Dorothy Kazel.) He says that he reported this observation to Subsergeant Colindres Aleman. Perez Nieto was never fully questioned as to why the women seemed suspicious to him, what resulted from his conversation with Colindres Aleman, or who else he spoke with about these suspicious-looking foreigners. Nevertheless, the Fiscal General told us he has no intention of re-examining Perez Nieto.

(v) *Written death threats and related evidence in the hands of the F.B.I.*—While in El Salvador, we learned for the first time that the F.B.I. has in its possession a written death threat that was delivered to the church in Chalatenango, where Ita Ford and Maura Clarke were working. We also learned that the F.B.I. found eight distinct sets of fingerprints on this threat, which have never been given either to the judge or to the prosecutors.

When we spoke to the Fiscal General and his staff during our recent visit they told us that they had no knowledge of the letter. One of the prosecutors told us, "If we had known about this evidence earlier, this could be a very different case." The prosecutors should be given access to this evidence at once.

This evidence may shed light on the unresolved issue of higher orders; there are reports that members of the church in Chalatenango were threatened and severely criticized during the fall of 1980 by the commander of the army in that area, Ricardo Pena Arbaiza.

The death threat may yield important evidentiary leads pertaining to Col. Pena Arbaiza's potential involvement in the killing, an issue that should be fully investigated. When we asked the Fiscal General about evidence suggesting higher orders, he told us that he has done nothing to pursue this aspect of the case and has no intention of doing so.

(iv) *Inquiry into the origins and authenticity of the confidential document given to the Salvadoran prosecutors.*—At our meeting with the Fiscal General and his staff, we furnished him a copy of a document that may be pertinent to this case which was recently sent to the Maryknoll Order in New York by an anonymous source. A copy of the document has also been given to the U.S. Embassy.

Because of the nature of this document, and questions we have about its authenticity, we believe that its contents should remain confidential at this time. However, we feel that the document—whether or not it is authentic—could have a profound impact on the outcome of this trial, and that its authenticity and origins should be investigated immediately on a priority basis. Although the Fiscal General shared our view of the importance of this document, his office has so far failed to take any action.

We feel very strongly that each of the foregoing steps is essential to a successful prosecution, and that each should be completed before the *sumario*, or investigative stage, of the judicial proceedings is completed. Once this case is elevated from the *sumario* to the *plenario*, or trial stage, of the proceedings, it will be, for all practical purposes, impossible to introduce into the trial record new evidence that may be produced.

Considering the serious problems still facing us, we are encouraged by and welcome the appointment of former Federal Judge Harold Taylor to review the case. As we understand it, Judge Tyler's mission is to examine all evidence and information in the possession of the U.S. government and to identify any evidence or evidentiary leads that should be shared with the Salvadoran prosecutors. We believe his efforts could lead to the discovery of important evidence and substantially improve the prospects of successfully prosecuting what is at present a circumstantial case.

Yet despite Judge Tyler's involvement, we continue to be disturbed by the apparent unwillingness and inability of those in the Salvadoran Fiscal General's office to successfully prosecute all those responsible for the murders. Virtually all those working on the case are law students. Indeed, we have been reliably informed that one of these law students, Bachiller Leonel Romero Cordero, has been named the coordinator of the case despite the fact that he was once removed from office for taking a bribe from a defense lawyer in a robbery trial in Zacatecoluca. In our view, the appropriateness of this individual's involvement in the case should be re-examined immediately.

In view of these continuing problems, we believe it is essential that the U.S. government take all appropriate steps to ensure that evidence critical to a successful prosecution is developed and presented in an admissible form.

We remain anxious to cooperate with and assist the Department of State in seeing that all those who are responsible for the murders of the four churchwomen are finally brought to justice.

Sincerely yours,

MICHAEL H. POSNER.
R. SCOTT GREATHEAD.



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STATEMENT OF
WILLIAM C. DOHERTY, JR., EXECUTIVE DIRECTOR
AMERICAN INSTITUTE FOR FREE LABOR DEVELOPMENT
BEFORE THE
FOREIGN RELATIONS COMMITTEE
OF THE
UNITED STATES SENATE
AUGUST 4, 1983
WASHINGTON, D.C.

Mr. Chairman, it is indeed an honor on behalf of the AFL-CIO to have been invited again to testify before this distinguished Committee. We have prepared this statement in consultation with Dr. Roy Prosterman, of the University of Washington, and Ms. Mary Temple, of the Land Council, who concur with the land reform section of this text. Most importantly, this presentation expresses the general views of the Unidad Popular Democratica (UPD) with whom we are in constant contact. The UPD has framed a declaration which we have attached to this document (Attachment #1).

El Salvador seems to be a problem for the United States that simply will not go away. That may be true for some time to come and, of course, it is only one part of the larger problems of Central America. But if events in El Salvador and the difficult foreign policy choices which they bring are a frustration to U.S. citizens and their representatives in Congress, please believe us when we tell you that those frustrations are shared by, and are even much more important to, the millions of decent democratic Salvadoran citizens who want nothing more than to live in peace in a society which democratically reflects their best interests. The average Salvadoran

wants nothing to do with the solutions of either the extreme right or the totalitarian Marxist-Leninist left.

The problem for the AFL-CIO is how best to support the development of the democratic center represented in great part by El Salvador's free trade union movement which has rallied under the banner of the Unidad Popular Democratica (UPD). The problem for U. S. foreign policy is how to support all centrist forces in El Salvador who are desirous of necessary social, political and economic change.

Democratic change, which began in October 1979, and is just beginning to take hold in El Salvador is the only true revolution; the idea that men and women of a nation have the right and duty to chose their leaders and an equal right to periodically change them. The AFL-CIO is proud to be a part of this revolutionary process and proud of the democratic trade unionists with whom we work in El Salvador to this end.

GENERAL POLITICAL ANALYSIS

The so-called revolutionary movement of El Salvador's radical left, represented by the guns of the FMLN, promises only another variety of totalitarian rule. On the other extreme of the political spectrum are powerful forces, both in and out of the Salvadoran governmental structure, which, if successful, would return the country to the despotic political rule which existed prior to October of 1979.

Although a threat not to be lightly dismissed, the armed Marxist-Leninist insurgency has not shown the ability to attract large numbers of Salvadorans to its cause. Three years ago, they claimed only the same number of guerrillas under arms that they do today (5,000 - 7,000) despite the massive military support from Cuba and Nicaragua. Meanwhile, the citizens of El Salvador completely rejected the guerrillas (simply by the act of voting) as a political alternative in the March 1982 elections. If the extreme left could be convinced to participate in the forthcoming elections (and we hope they will), we do not believe that they will show sufficient support to upset the democratic process.

NEGOTIATIONS/DIALOGUE/POWER-SHARING

We think further, that the FMLN/FDR have made the same analysis and have come to roughly the same conclusion. Hence we have seen a renewed interest by the extreme left in the possibility of negotiations that could possibly lead to a sharing of government power. (FDR representatives are currently saying that their interest is only to have "open" negotiations). The AFL-CIO and the UPD positions on "power sharing" has not changed since our last appearance before this Committee. We continue to feel that only an honest electoral process will provide the people of El Salvador with the best possibility of determining their own political solution.

Thus, in general, we view the FMLN/FDR as having limited options. Their more radical leadership may continue to fight a "prolonged war" for some time to come with a resultant loss of life and physical damage, but, unless there are great changes in the military situation, their best hope is for military stalemate. A decision to attempt to gain power through the electoral process would, in our opinion, doom them to an ineffective role in governing the country. It is quite natural, then, that they would like to participate in negotiations for the purpose of sharing power.

There is an added incentive for the democratic forces currently associated with the guerrilla left, the frustrated democrats, to want to negotiate toward this end. They know that in the event of a guerrilla military victory, their role would be ineffective and short-lived as the men with the guns would soon claim their right to rule and to impose their Marxist-Leninist philosophies on the people of El Salvador — just as have the Sandinistas in Nicaragua.

THE FORTHCOMING ELECTIONS

As important as the next elections will be in the development of the democratic process, one should not feel that they will quickly end the war, or reduce by themselves the human rights abuses, or immediately guarantee the success of the reform programs. Much obviously depends on the outcome of the elections, and the

extreme right is continuing to increase its strength and influence. The most important aspect of the forthcoming elections will be the possibility of the establishment of a government that can and must accept the responsibility of governing in the best interests of the entire Salvadoran people. Only a strongly elected government with a strong popular mandate to rule can fulfill this task.

The risks are great, and the desired outcome is by no means assured. The greatest risk is that the far right will emerge victorious and continue to try to destroy the reforms. And no one can assure that even a centrist government that emerges from the next election will have received a mandate from the people to rule strongly.

There are many democratic forces today in El Salvador which are calling for a postponement of elections until 1984 in order to have more time to prepare an adequate campaign. Normally, democrats do not seek the postponement of elections, but this is, of course, an exceptional period in Salvadoran history. The Unidad Popular Democratica (UPD) is among those organizations favoring a postponement. An explanation is in order.

The members of the Assembly who were elected in March 1982 legally had only one major task before them - to write a new constitution. They formed a Constituent Assembly. After more than fifteen months in office, a new draft constitution has only recently been made public and it has come under very serious criticism from various sectors of El Salvador, including the trade union movement.

(The following are examples of the substance of very controversial clauses in the draft: the land reform program might be killed by guaranteeing unrestricted land rental, only political parties could take part in political debate, and the Army would be responsible for the protection of citizens' human rights as well as determining whether or not the country was being run democratically).

The public debate over these and many more such issues cannot be expected to end quickly without the charge that the new constitution has been "railroaded" through

the Assembly and foisted upon the country. If the citizens of El Salvador feel that there is validity to such an accusation, it will make governing under the new constitution an impossibility. Thus, to have been a productive exercise, the public debate will have to be not only allowed to continue but encouraged.

Unfortunately, an electoral law cannot be written until the new constitution is approved. Since we are, in August, only a few months away from the previously announced date of the elections, it is highly unlikely that there will be time for the public debate on the Constitution, the writing (and possible debate) on the new electoral laws, and adequate time to present a political campaign by the contending parties to the general public. For these reasons, many democratic organizations and the UPD are arguing that the election date should be postponed, but that elections should be held during 1984.

We would like now to discuss some of the specific problems that we face in El Salvador for the purpose of updating this Committee on the Hammer-Pearlman-Viera murder case and the land reform program. In the process, we believe we will be explaining more fully the reasons that we have found it necessary to call attention to the resurgent strength of the Salvadoran right wing.

HAMMER-PEARLMAN-VIERA MURDER CASE

You may remember from our testimony to you of February 2, 1983 that in October 1982 the Fifth Penal Court of El Salvador handed down a decision on the Hammer-Pearlman-Viera murder case that the AFL-CIO considered so atrocious that we decided to make public the information that we then had available. The decision of "insufficient evidence" against Hans Christ and Lopez Sibrian was appealed to the same court, and in January 1983 the judge confirmed his previous decision. The Attorney General's office then appealed to the Magistrates Court and, in an April 29, 1983 decision, sustained the decision of the Fifth Penal Court. Finally, the decision of

the Magistrates Court was appealed to the Supreme Court where the case is now "being considered" only on grounds that a procedural error might have been committed.

Assuming that the Supreme Court finds no procedural errors in the lower courts' handling of the case, the effect of the April 29 decision is that there can be no further civil legal recourse against Hans Christ and that, with regard to Lopez Sibrian, we have one year from the date of the Supreme Court's decision (probably within the next two months) to provide still further evidence that the court would consider "sufficient." If, on the other hand, the Supreme Court does find procedural errors in the lower court's handling of the case, additional evidence against both Christ and Lopez Sibrian may again be presented to a court ordered to reconsider the case.

The AFL-CIO continues to be urged to hire an "acusador particular" but, as yet, our position on this matter remains the same as reported to you in our last testimony before this Committee. (An "acusador particular," you may recall, provides a function similar to the Attorney General's and acts on behalf of the aggrieved parties). We do, however, constantly re-appraise this aspect of the case and have not closed the door entirely on the possible use of an "acusador particular."

Meanwhile, the two confessed murderers, the Army privates who pulled the trigger on orders from their superior officers, Lt. Lopez Sibrian and Capt. Avila have not gone to trial. The elevation of their case to the Plenary, or trial stage, may not take place until the appeal, currently before the Supreme Court, is decided upon.

As a practical matter, no further investigation (by the courts of El Salvador) of the case is possible, since the records are in the hands of the Supreme Court.

AFL-CIO POSITION ON MILITARY AID

The AFL-CIO continues to believe that military aid to El Salvador should be suspended until there is progress in obtaining justice in this case, as well, of course, as in the cases of the other U.S. citizens. We do not feel that anything which has

transpired since our last presentation to you can be construed as progress. To the contrary, we consider that we are worse off today than we were six months ago if only because the legal delays in the case, we believe, reflect a basic unwillingness to prosecute those really responsible.

Despite our deep dissatisfaction with the handling of the case and, more profoundly, with the corruption of the Salvadoran judicial system, we should like to point out that many Salvadorans are dedicated to judicial reform, not simply because it serves to placate North Americans, but more importantly because it is they who must live under that system. Responding to the need for reform, President Magana has taken steps to set up a Commission of very distinguished lawyers whose purpose is to recommend improvements in the criminal code. The establishment of this Commission represents only the first feeble step in the right direction, but is a move that should be recognized, applauded, and supported.

HUMAN RIGHTS VIOLATIONS TOLERATED BY ARMY

The AFL-CIO position has long been that real control of human rights abuses depend in large measure on the functioning of the judicial system. Thus, it is not surprising (although extremely distasteful to accept) that such abuses have increased in the last six months. We accept as true the estimates of other legitimate human rights' organizations of an increase in non-military related violence, since we have no independent capacity to make such evaluations. With that caveat, however, we would like to make two brief human rights-related comments.

First, the UPD has again, thank God, been able to report to us that none of their leadership have recently been victimized by violence. Some have, however, received death threats and we do not believe for one moment that they are immune from the atrocities which have befallen so many of their fellow citizens. We strongly suspect that the majority of the non-combatant violence emanates from the death

squads of the far right. Two weeks ago, for example, two campesino members of the Union Comunal Salvadorena (UCS) were murdered by "unidentified armed men" in a land reform-related incident.

Secondly, since we last met with you, a group of 74 campesinos, including 18 members of the Asociacion Nacional Indigenos Salvadorenos (ANIS), an affiliate of the UPD, was massacred by members of the Salvadoran Army. The killings, which occurred in the Canton de las Hojas, in Sonsonate, on February 22, 1983, have been well publicized in the press, and it would therefore seem unnecessary to recount the details at this time. In a bizarre turn of events, however, the father of one of the victims was put in jail, (subsequently released on July 26, 1983), accused of attempted murder of one of those who initiated this horrendous crime. Meanwhile, the Army officer who commanded the troops involved in the massacre remains at liberty. It would seem obvious that in this case (as in the Hammer-Pearlman-Viera case), the Army is simply unwilling to punish its own. However, this case has only begun to be processed, and the campesinos are receiving the strong support of the Human Rights Commission of El Salvador. It is, therefore, still too early to make final conclusions.

Nevertheless, such actions by the Army cannot be allowed to continue, if not for obvious moral and judicial reasons, then for more down-to-earth political reasons. This is not just one more "internal Salvadoran matter" not subject to comment by the Government of the United States. This is one more example of an Army whose actions would seem to be above the law. The U.S. Administration is currently engaged in a campaign to inform the American people of the correctness of U.S. policy in Central America and El Salvador. How is the Administration going to explain away this case, the Hammer-Pearlman-Viera case, the case of the Catholic nuns, and (if they were more widely known to Americans), the cases of hundreds of Salvadorans who have been murdered by the death squads and/or the Army? We cannot ask the American public to understand and accept a policy of support for such elements in El Salvador on the

assumption that the other alternative that is offered to them will be worse, i.e., the Marxist-Leninist guerrilla leadership. The U. S. Government must even-handedly protest each and every such barbaric act and, if necessary, reduce military aid accordingly. In so doing, the U.S. would support the democratic center in El Salvador, which abhors these abuses of power every bit as much as their North American counterparts. Only by so doing will there be a possibility of soliciting the support of the American people for our efforts in El Salvador.

On balance, the Salvadoran Army is needed to defeat the guerrillas. On balance, the Army has, in most instances, been supportive of land reform. And on balance, not every Army officer is a killer. Now equally on balance, the U.S. Government must pressure the Army to clean up its own act, and if we are accused of "intervention" in the process, so be it. Such a policy will be applauded by thousands of democratic Salvadorans whom we should be supporting.

DEVELOPMENT OF DEMOCRACY

The democratic center of El Salvador has not been dormant during this period of change. A week ago last Sunday, the UPD organized a forum, which attracted more than 1,200 persons from all walks of life, to discuss the new constitution. The development of a commission of lawyers to propose changes in the criminal code has been mentioned. In addition, an Amnesty Commission, established by Decree 210 on May 4, 1983, actually began their work on May 17, 1983. According to the Commission, between that date and July 26, 1983, 542 political prisoners have been released from El Salvador's prisons. (However, according to UPD estimates, an equivalent number of new prisoners have been detained, leaving the situation, on balance, unchanged.)

Under the amnesty law, 339 guerrillas have laid down their arms since May. While it would be naive to think that the war in El Salvador will come to an end as a result of the amnesty decree, it certainly is a step in the right direction.

A democratic society is, nevertheless, still a goal to be obtained in El Salvador, and will remain so as long as the state-of-siege legislation is in effect. We do not believe that arbitrary arrest and jailing without a speedy trial are necessary security measures. Above all, we condemn decrees which freeze wages and declare illegal any strike by labor unions. Such decrees are not in the best interest of the Salvadoran people. We also do not support strikes designed to overthrow an elected government, but believe that such revolutionary actions can be handled in ways other than by destroying basic elements of trade union liberty.

LAND REFORM - GENERAL

The Phase III (Land-to-the-Tiller) of the agrarian reform program, whose future was in doubt when the AFL-CIO last appeared before this Committee, is alive, but not well. It continues to be beset with serious problems. You may remember that, at that time, there was a real threat that the Constituent Assembly might not provide the legislative authority to continue Phase III. After several weeks of intensive lobbying by the Unidad Popular Democratica (UPD), the Assembly voted 36 to 24 in favor of extending the program to December 31, 1983. While this was a victory for the Salvadoran campesinos, and for those who support constructive economic and social reforms in El Salvador, the victory did not signal by any means the end of landlord resistance to the process.

The statistics of the Phase III program (Attachment #2) indicates a mixed performance by the government of El Salvador over the last six months, with both negative and positive factors. For example, the "front end" of the program, the taking of new title applications, has statistically been up and down. In January and February, applications reached new highs, but during the ensuing four months there was a continuous steep decline. A number of factors at least partially explain this drop in applications. Most revolve around managerial decisions by FINATA regarding the use

of their limited resources. FINATA until very recently lacked the technical and financial resources to carry out sustained implementation of all phases of the program concurrently.

FINATA initiated a new, extensive campaign in the fall of 1982 to obtain new title applications. This campaign to increase the number of beneficiaries covered all the Departments in the country and most of the municipalities. It involved the use of mobile teams which took the reform directly to the campesinos on a major scale for the first time. The success of this approach is indicated in the statistics. In January alone, 8,782 new title applications were taken; overall, by the time the campaign was terminated on February 28, 1983, 21,537 applications were obtained. However, with the completion of the campaign, and particularly the ending of the use of mobile teams, a sharp decrease in the number of new applications immediately became apparent with a low of only 178 applications in June.

The question might well be asked: Why didn't FINATA continue to use mobile teams to obtain applications? One important reason was that a decision was made to use their limited financial and technical manpower on other aspects of the program. Thus, during the period when there was the steepest decline in new applications, there was a directly related increase in the issuance of provisional and final titles. There was, at the same time, a continuation of evictions, particularly in January, February and March — the period preceding the planting season — and a sharp increase in legal oppositions to campesinos' claims presented by former landowners. We will discuss these two points more fully below.

AID has recently noted FINATA's lack of technical and program resources, and has recently approved a two million dollar grant to FINATA to allow them to hire and train up to 500 new employees. Mobility will be increased with the purchase of an adequate number of vehicles under the grant. The training process of the new hires is completed, and FINATA has now launched a major new comprehensive campaign,

utilizing the mobile team concept, to simultaneously process and expedite new applications, provisional titles, landlord compensation and the issuance of definitive titles. This new campaign began on July 15.

FINATA's goals for the period between July 15 and Dec. 31 include 20,000 new applications, 14,000 provisional titles and the compensation of 900 ex-property owners, which will facilitate a major increase in the issuance of definitive titles. Given these ambitious goals for the next six months, we must admit that it is much more pleasant to contemplate future successes than to report on past performance. Even if FINATA were to achieve these goals, however, the program would still be significantly short of completion. Moreover, unless the current termination date for applications is extended beyond December 31, 1983, a substantial number of beneficiaries would never be reached. We must emphasize, however, that the land reform program and the current FINATA campaign continue to have the support of the UPD and its campesino affiliates, and we will continue to support their efforts.

THE PROBLEM OF EVICTIONS

Very recently, the magnitude of the problem of evictions has been substantiated by a statistical study jointly conducted by AID, AIFLD, FINATA and the UPD. As of this date, there has not been sufficient time to completely analyze all of the data, but enough is known to state that evictions are an extremely serious problem. All parties to the study agree on this point. In reality, the new statistical information only proves what the Salvadoran campesino organizations have been saying since December of 1981, and what the AFL-CIO has been reporting to various committees of the Congress over the past two years.

Before discussing the statistics, a couple of points should be made. First, every eviction is an illegal eviction because it is against the agrarian reform laws of El Salvador for anyone to evict an eligible beneficiary. Secondly, an evicted campesino is

much worse off than he was before he became a beneficiary of the land reform program. Now he has lost possession of his land, and for a person already living at the margin of survival, this is deadly. Third, an eviction of one campesino, when it becomes known to other potential beneficiaries, has the multiplier effect of deterring others from exercising their legal rights.

Because all of the statistics have not yet been analyzed by all of the parties to the study -- much less that they have reached agreement on their meaning -- we are going to mention only the most important. The size of the study's sample was designed to provide at least a 95 percent confidence level. The study, which resulted in the production of twenty separate tables, will be made available as soon as the analysis is completed. This is expected to take several weeks.

Two separate definitions of an evictee were used in the study. FINATA insisted that only a person who had, at the very least, filed an application should be considered an evictee if he had been thrown off his land. The campesino organizations insisted that any potential beneficiary, whether or not he had filed an application should be considered an evictee if he had been forced to leave his land. Thus, under the FINATA definition, it was found that 5,634 persons as of July 1983 were considered to have been evicted. Using the definition of the campesino organizations, the figure is 9,067 evictees. Both figures derive from a sample universe of approximately 62,00 beneficiary families and do not include evictions among a roughly equal number of families who were not surveyed.

Perhaps it will come as no surprise that we support the campesino definition. But we hasten to assure you that this support is based on policy and logic, not friendship - although friendship certainly exists. We find little value in a definition (the FINATA definition) that excludes an evicted campesino who, primarily because of intimidation and fear of the extreme right, has not been able to apply for what is legally his.

The figure of 9,067 evictions is bad enough. However, we fear that even this figure is understated due to lack of information available under the campesino definition for the region which includes Usulután, San Miguel, Morazan, and La Unión, a conflicted area which had the highest absolute number of evictions even using the FINATA definition. The figure of at least 10,000 evictions, which the campesinos have been using for quite some time (without the benefit of a scientific study) is probably not too far off.

Another disturbing aspect about the study is that the reinstallation of evicted campesinos is only 1,271 persons, which is considerably below the numbers previously reported to AID by FINATA (3,656). We do not, by disclosing this data, accuse the FINATA authorities of falsifying their reports. However, since the process of reinstallation is probably the most practical way of diminishing the resistance of former landowners, this low figure would indicate that we have a great deal to do in this area. At the very minimum, further analysis is necessary to reconcile the study's figures and those of FINATA's on the reinstallation of illegally evicted beneficiaries.

The study underlines what we already knew. The single most significant reason for evictions is landowner resistance: sixty-eight percent of the incidents were effected by landowners.

Even if satisfactory action on the Hammer-Pearlman-Viera murders were to allow us to support the giving of military aid, the AFL-CIO would insist that the giving of military aid be conditioned on the restoration of the integrity of the land reform process, including reinstatement of evicted beneficiaries and prevention of further evictions, and on the completion of that process in accordance with the agrarian reform decrees Nos. 153, 154 and 207.

THE PROBLEM OF "OPPOSITIONS"

Another matter, not included in the study, continues to be a serious threat to the land reform program. These are the "oppositions" to the campesinos' claims

submitted by the former landowners and administratively resolved by FINATA; according to the campesino organizations, altogether too many times in favor of the former landowner. This problem must be subject to further analysis to determine what the reality actually is. The campesinos have been claiming for some time that oppositions are a problem of major magnitude. Somehow, no one believes them until a statistical study is done. Behind this assertion is another claim by the campesino organizations that the ARENA party is guilty of conflicts of interest within FINATA and at all levels. The AFL-CIO believes the campesinos.

CONSTITUTIONAL CHALLENGES

Still another threat to land reform comes from the draft of the new constitution. The language of articles 102, 103, 104, 105 contradicts, through a variety of provisions, the existing land reform laws. For example, Article 104 contains an unlimited right of a landowner to rent his land, which is in direct contradiction of the basic land reform legislation adopted in 1980. We do not believe that this clause was inserted in the draft of the Constitution in isolation; indeed there are a series of provisions in these proposed articles that would be wholly destructive of land reform legislation. If allowed to prevail, any of these clauses would terminate the land reform program, and the U.S. Government, under current law, would be required to end aid to El Salvador. Under these circumstances, the AFL-CIO would support such a termination, including economic aid.

LAND REFORM SUMMARY

In fact, we see a general pattern of opposition against the land reform program at all levels (municipal, departmental, and national), and using evictions, oppositions, and the new draft constitution as major weapons. This is one reason that we signaled a new strength of the extreme right at the beginning of this statement.

We must be careful not to let pessimism carry the day. Much has already been accomplished and, we are confident, much more will be accomplished. To date, 64,687 applications representing 50,866 families have been submitted under Phase III of the program. There are an additional 32,000 beneficiary families on Phase I cooperatives. Altogether this represents nearly 500,000 people who have benefited from the program. To protect and continue the process will require the continued support of the U.S. Government for land reform in El Salvador. We must support those in El Salvador who favor the program and not have the door left open to the extremes of political left and political right - either of which would destroy land reform for their own ends.

JACKSON/MATHIAS AND BARNES/KEMP RESOLUTIONS

Support for land reform, of course, is only one aspect of a much larger picture. The AFL-CIO has always favored a sufficiently high level of economic aid for Central America in general and El Salvador in particular so that the conditions of poverty and injustice are eliminated. The proposals of Senators Jackson and Mathias and Congressmen Barnes and Kemp (the so-called and, we feel, misnamed "Marshall Plan for Central America") deserves the positive attention of the Congress. We believe that a carefully conceived, major development effort can be mounted and sustained with excellent chances for success for less than it costs to build another aircraft carrier to patrol the coasts of Central America. (Notwithstanding the present need for short-term economic assistance to shore up the serious balance of payments and budget deficits of the economies of Central America, there is also relative low absorptive capacity for longer term project assistance designed to bring about imperative economic and social changes.) We would caution that the monies spent should be designed to effect political and social change. Economic development without complementary socio-political changes and democratic accommodations can be

counterproductive and dangerous despite any macro-economic development that may be achieved.

BI-PARTISAN FOREIGN POLICY FOR CENTRAL AMERICA

We support the initiative of the President of the United States to move toward a bi-partisan foreign policy for Central American through the establishment of a high level commission, headed by Henry Kissinger, to recommend policy for the area. The AFL-CIO does not accept the proposition that the choices for Central America, or for U.S. foreign policy toward the area, are between right wing dictatorships or Marxist-Leninist regimes. We reject the idea that our democracy need be "exported." Rather, we know that the overwhelming majority of Central Americans desire to control their own destinies so fervently that they constitute a national resource for the growth of democracy; a natural resource that we have a moral right and duty to nourish by aid which is designed to benefit the democratic and pluralistic centrist forces of each country.

In the past, much needed development programs have resulted in a richer upper class and a much more exploited worker and campesino class. The only way to prevent the economic, social and political exploitation that has long provided the underpinning for the Marxist-Leninist appeal for revolution is to create more wealth and share it more equally among the working people of Central America. There is no value in the long run to a military solution if it results in the the continued injustices and deprivation of the average man. True democracy and an end to rule by the Central American oligarchy is the only legitimate way to defend U.S. national security interests in the region.

Mr. Chairman, we thank you for this opportunity to present to this distinguished Committee our views of the situation in El Salvador.



TRANSLATION OF ATTACHMENT # 1

UNIDAD POPULAR DEMOCRATICA. (U.P.D.)

August 3, 1983

CONSIDERATIONS ADVANCED BY POPULAR DEMOCRATIC UNITY (UPD)
IN REGARDS TO THE POLITICAL, ECONOMIC,
AND SOCIAL CRISIS IN EL SALVADOR

1. DIALOGUE. Democratic Unity considers that a dialogue among the representatives of the forces in conflict may be one way toward pacification, but this dialogue should be positive and must involve representatives of the various social, political, and economic sectors of the country and without prior conditions.

The dialogue should include:

- a. A truce with a cease fire between the guerrillas and the military forces of the Salvadorean government.
- b. There should be no prior conditions established by either side.
- c. A meeting should take place outside the Central American region.
- d. Discussion of an agenda involving compromise and mutual guarantees.
- e. The dialogue should not involve sharing of power.
- f. The political power should be won through elections. To obtain this objective optimum conditions must be established, such as reorganization of the central electoral council, voting registry, electoral law, and a political constitution responsive to the political, economic, and social interests of all Salvadoreans.
- g. In order to lessen the internal tensions of a political nature an unrestricted amnesty should be granted to political prisoners. Popular Democratic Unity - UPD will commit itself to encourage or to generate efforts in order to realize the peace dialogue.

2. ELECTIONS: Popular Democratic Unity - UPD considers that upon the adoption of a political constitution guaranteeing the democratic process, pacification, the rule of law, social justice, and human rights, the members of the Assembly must give one more demonstration to the people in the sense of striving for the establishment of a provisional government with positive social backing, truly representative and enjoying popular support. To achieve this it would be necessary to appoint a new Supreme Court of Justice.



UNIDAD POPULAR DEMOCRATICA. (U.P.D.)

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Justices of the Court of Accounts, Attorney General of the nation, and other officials of public administration which should be honest and qualified.

Once the new constitution is in force, the electoral law required for setting election dates for presidential elections should be drafted, and the power should be delivered to a legitimate government; at the same time efforts should be made to establish the conditions that will allow for a democratic electoral process, participative and honest, thus ensuring the positive and satisfactory results for all the Salvadorean people.

Economic Aid, Military and Non-Military

3. Popular Democratic Unity is not opposed to military and non-military economic aid; however, in consideration of possible future consequences, it asks for the conditioning of this aid in the following manner:

MILITARY

1. The military sector should not only commit itself but it should also comply with the dissolution of the paramilitary forces with the objective of guaranteeing the life of the citizenry.
2. The military sector should comply with the noble functions granted them by the political constitution and should refrain from invading jurisdictions outside its authority.
3. Return to the barracks of the military and members of the security forces who are presently occupying strictly civilian positions.
4. Funds earmarked for military aid should be monitored and controlled by representatives of the friendly nations granting assistance, with the end of ascertaining and ensuring that the said funds will be used for specific objectives.
5. To solve the murders of trade unionists and American advisors and others which up to this time remain unsolved.



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HOW MILITARY ASSISTANCE FOR REVIVING THE ECONOMY OF THE COUNTRY

Popular Democratic Unity - UPD - in its communique of August 31, 1961, as it praised the program of post-war economic assistance, the so-called Marshall Plan, issued a statement motivated by the bitter experience that we had with economic assistance for Central America and the rest of Latin America; this aid never reached the neediest sectors but it served to enrich governments and privileged cliques; then it proposed a fund for stabilization and economic rehabilitation, as follows:

1. The formation of the Council exercising the function of the control and supervision staffed as follows:
 - a) A government representative
 - b) A member from private industry
 - c) A member from Popular Democratic Unity
 - d) Two members from the countries contributing to the formation of the fund.

Together these members enjoyed the veto power regarding the channeling of the said fund by following priorities.

2. In preference the fund should be used as follows:
 - a) Essentially for revitalization of land reform
 - b) Encouraging agriculture and in particular agro-export commodities such as coffee, cotton, sugar; enlarging and improving the cattle industry and diversifying other agricultural commodities.
 - c) Reviving industry of all sizes, large, medium and small, including handicrafts.
 - d) To align the balance of payments, by using currencies from the fund and making a rational use of the same according to priorities.
 - e) Increasing housing construction for workers and the middle class under favorable terms, prices and interests.
 - f) Importing raw materials for industrial use according to the size of the various industries.



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- g) Importing inputs for agriculture: fertilizers, other chemicals, pesticides, herbicides, insecticides, machinery and farm equipment and other of this nature.
- h) Industrial machinery and equipment for large, medium and small industry.
- i) Construction equipment and materials for low-cost housing.
- j) Parts for motor vehicles and for other industrial uses.
- k) Other items not included.

4. POLITICAL CONSTITUTION: Popular Democratic Unity upon finding profound legal gaps in the draft of the political constitution, judges that it should not be approved so long as the opinions of the various sectors of public opinion are not heard, such as the opinions of workers, church, professional associations, chiefly lawyers, members of cooperatives, etc.

5. RESPECT FOR HUMAN RIGHTS: Popular Democratic Unity - UPD - considers that El Salvador is not only living in a state of legal anarchy and incoherent government decisions, but that there is an absolute contempt for human life. In this regard consideration ought be given to the negative factors that are making impossible the return to a genuine state of law, because in addition to the three traditional powers of the state, Executive, Legislative, and Judiciary there is still another power unquestionably real; were a military solution to be guaranteed the country would suffer under an iron dictatorship for an additional 50 years. For this reason and other basic and fundamental reasons, Popular Democratic Unity desires a political solution to the crisis in El Salvador.

6. REFORMS OR CHANGES: Popular Democratic Unity is conscious of the fact that without reforms in El Salvador, there will be no social justice, in the same manner that without social justice there will be no peace, but merely the ferment of an outright civil war which without doubt will bloody the country. Many years of social injustice and the absence of free elections, with governments imposed



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by the official parties have engendered the most dramatic violence in the history of our homeland.

7. To attain a genuine state of law and to contribute to the efforts of pacification of the country, there should not be a temporary regime that gives the validity to decrees such as 296, 307 and 344 since they serve to harm and violate the fundamental rights of the citizens, especially those of the workers.

POPULAR DEMOCRATIC UNITY - UPD - POLITICAL COMMITTEE

(Signed): Miguel Angel Vasquez (C.T.S.)
 Gabriel Piloña Araujo (P.U.C.A.)
 Salvador Carazo Carrillo (FESINCONSTRANS)
 Juan Antonio Argueta (S.U.T.E.)
 Ramón Arístides Méndez (U.S.C.)
 Jorge Luis Camecho (ACOPAI)
 Alejandro Escobar Cartagena (SIPCES)
 Adrián Esquivel Liso (A.N.I.S.)



ATTACHMENT # 1

UNIDAD POPULAR DEMOCRATICA. (U.P.D.)

3 de Agosto de 1983

**CONSIDERACIONES DE LA UNIDAD POPULAR DEMOCRATICA - U.P.D.
EN TORNO A LA CRISIS POLITICA, ECONOMICA Y SOCIAL DE EL SALVADOR.**

1. **DIALOGO.** LA UNIDAD POPULAR DEMOCRATICA U.P.D. ESTIMA QUE EL DIALOGO CON LOS REPRESENTANTES DE LAS FUERZAS CONFLICTIVAS PUEDE SER UNA DE LAS VIAS DE PACIFICACION, PERO PARA QUE EL DIALOGO SEA POSITIVO DEBE CONTARSE CON REPRESENTANTES DE LOS DIFERENTES SECTORES SOCIALES, POLITICOS Y ECONOMICOS DEL PAIS Y SIN CONDICIONES PREVIAS.

EL DIALOGO DEBERIA CONTAR:

- a) CON UNA TREGUA EN EL CESE DEL FUEGO DE LA GUERRILLA Y LAS FUERZAS MILITARES DEL GOBIERNO SALVADORENO.
- b) SIN CONDICIONES PREVIAS POR AMBOS BANDOS.
- c) DEBE SER EL ENCUENTRO FUERA DEL AREA CENTROAMERICANA.
- d) DISCUTIR UNA AGENDA DE COMPROMISOS Y GARANTIAS MUTUAS.
- e) QUE EL DIALOGO NO IMPLIQUE REPARTIMIENTO DEL PODER.
- f) QUE EL PODER POLITICO SEA CONQUISTADO A TRAVES DE ELECCIONES. PARA EL LOGRO DE ESE OBJETIVO DEBEN CREARSE LAS OPTIMAS CONDICIONES, COMO REORGANIZACION DEL CONSEJO CENTRAL DE ELECCIONES, REGISTRO ELECTORAL, LEY ELECTORAL, CONSTITUCION POLITICA QUE RESPONDA A LOS INTERESES POLITICOS, ECONOMICOS Y SOCIALES DE TODOS LOS SALVADORENOS.
- g) PARA ALIVIAR LAS TENSIONES INTERNAS DE ORDEN POLITICO PUEDE OTORGARSE UNA AMNISTIA IRRESTRICTA A LOS REOS POLITICOS. LA UNIDAD POPULAR DEMOCRATICA - U.P.D. -SE PUEDE COMPROMETER A IMPULSAR O GENERAR ESFUERZOS PARA LOGRAR EL DIALOGO DE PAZ.

2. **ELECCIONES.** LA UNIDAD POPULAR DEMOCRATICA - U.P.D. - CONSIDERA QUE AL PROMULGARSE LA CONSTITUCION POLITICA QUE GARANTIZARA EL PROCESO DEMOCRATICO, LA PACIFICACION, LA LEGALIDAD; LA JUSTICIA SOCIAL Y LOS DERECHOS HUMANOS, LOS SEÑORES DIPUTADOS DEBEN DAR OTRA MUESTRA AL PUEBLO EN EL SENTIDO DE PROCURAR EL ESTABLECIMIENTO DE UN GOBIERNO PROVISIONAL CON POSITIVO RESPALDO SOCIAL, VERDADERAMENTE REPRESENTATIVO Y CON APOYO POPULAR. PARA ELLO DEBE NOMBRARSE UNA NUEVA CORTE SUPREMA DE JUSTICIA, MAGISTRADOS DE LA CORTE DE CUENTAS, FISCAL GENERAL DE LA REPUBLICA Y OTROS FUNCIONARIOS DE LA ADMINISTRACION PUBLICA QUE SEAN HONRADOS Y CAPACES.

VIGENTE LA NUEVA CONSTITUCION, DEBE ELABORARSE LA LEY ELECTORAL PARA CONVOCAR A ELECCIONES PRESIDENCIALES Y QUE EL PODER SEA



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ENTREGADO A UN GOBIERNO LEGITIMO, AL MISMO TIEMPO DEBE PROCURARSE ESTABLECER LAS CONDICIONES QUE PERMITAN UN PROCESO ELECTORAL DEMOCRATICO, PARTICIPATIVO Y LIMPIO; ASEGURANDO ASI EL RESULTADO POSITIVO, SATISFACTORIO PARA TODO EL PUEBLO SALVADORENO.

AYUDA ECONOMICA MILITAR Y NO MILITAR.

3. LA UNIDAD POPULAR DEMOCRATICA - U.P.D. - NO SE OPONE A LA AYUDA ECONOMICA MILITAR Y NO MILITAR. SIN EMBARGO, AL ANALIZAR LAS CONSECUENCIAS FUTURAS, SOLICITA CONDICIONAR ESA AYUDA EN LA FORMA SIGUIENTE:

EN LO MILITAR.

- 1 QUE EL SECTOR CASTRENSE NO SOLO SE COMPROMETA SINO QUE CUMPLA CON LA ERRADICACION DE LOS CUERPOS PARAMILITARES A FIN DE GARANTIZAR LA VIDA A LOS CIUDADANOS.
- 2 QUE EL SECTOR MILITAR CUMPLA CON LAS NOBLES FUNCIONES QUE LES OTORGA LA CONSTITUCION POLITICA Y NO INVADA JURISDICCIONES QUE NO SON DE SU COMPETENCIA.
- 3 EL RETORNO DE LOS MILITARES A LOS CUARTELES Y CUERPOS DE SEGURIDAD, QUE ACTUALMENTE OCUPAN PUESTOS ESENCIALMENTE CIVILES.
- 4 QUE LOS FONDOS DESTINADOS PARA AYUDA MILITAR SEAN SUPERVISADOS Y CONTROLADOS POR REPRESENTANTES DE LAS NACIONES AMIGAS QUE OTORGAN AYUDA, A FIN DE CONSTATAR Y CERTIFICAR QUE DICHOS FONDOS SON USADOS DE ACUERDO A SUS DESTINO ESPECIFICO.
- 5 QUE SE ESCLAREZCAN LOS CRIMENES DE SINDICALISTAS Y ASESORES NORTEAMERICANOS Y OTROS QUE HASTA LA FECHA NO SE HAN ESCLARECIDO.

EN LO NO MILITAR PARA REACTIVAR LA ECONOMIA DEL PAIS.

LA UNIDAD POPULAR DEMOCRATICA U.P.D. EN SU COMUNICADO DEL 31 DE AGOSTO DE 1981, AL ELOGIAR LOS EFECTOS POSITIVOS



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DEL PROGRAMA DE AYUDA ECONOMICA DE POST-GUERRA LLAMADO PLAN MARSHALL, MANIFESTO, EN BASE A LA AMARGA EXPERIENCIA DE LA AYUDA ECONOMICA PARA AMERICA CENTRAL Y LATINOAMERICA, AYUDA QUE NO LLEGO A LOS SECTORES MAS NECESITADOS SINO A ENRIQUECER A GOBIERNOS Y CAMARILLAS PRIVILEGIADAS, PROPUSO UN FONDO DE ESTABILIZACION Y RESTAURACION ECONOMICA, ASI:

- 1 LA INTEGRACION DE UN CONSEJO CON FUNCIONES DE CONTROL Y FISCALIZACION, INTEGRADO DE LA MANERA SIGUIENTE:
 - a) UN REPRESENTANTE DEL GOBIERNO.
 - b) UN REPRESENTANTE DE LA EMPRESA PRIVADA.
 - c) UN REPRESENTANTE DE LA UNIDAD POPULAR DEMOCRATICA.
 - d) DOS REPRESENTANTES DE LOS PAISES QUE CONTRIBUYEN A LA FORMACION DEL FONDO.
 ESTOS REPRESENTANTES EN FORMA CONJUNTA GOZARAN DEL DERECHO A VETO EN CUANTO A LA CANALIZACION DE DICHO FONDO DE ACUERDO A PRIORIDADES.
- 2 LA UTILIZACION DEL REFERIDO FONDO SE HARA PREFERENTEMENTE:
 - a) PARA REVITALIZAR ESENCIALMENTE LA REFORMA AGRARIA.
 - b) PARA INCENTIVAR LA AGRICULTURA SOBRETUDO A PRODUCTOS DE AGRO-EXPORTACION COMO CAFE, ALGODON, AZUCAR, INCREMENTO Y MEJORAMIENTO DE LA GANADERIA Y LA DIVERSIFICACION DE OTROS PRODUCTOS AGRICOLAS.
 - c) PARA REACTIVAR LA INDUSTRIA EN SU DIMENSION DE GRANDE, MEDIANA Y PEQUENA, INCLUYENDO LA ARTESANIA.
 - d) PARA EQUILIBRAR LA BALANZA DE PAGOS, CON LAS DIVISAS DEL FONDO, HACIENDO USO RACIONAL DE ELLOS, DE ACUERDO A ORDENES PRIORITARIAS.
 - i) INCREMENTAR LA CONSTRUCCION DE VIVIENDAS PARA OBREROS Y CLASE MEDIA EN CONDICIONES FAVORABLES EN CUANTO A PLAZO, PRECIO E INTERESES.
 - f) IMPORTACION DE MATERIA PRIMA PARA FINES INDUSTRIALES, CONFORME LA DIMENSION EMPRESARIAL.
 - g) IMPORTACION DE INSUMOS PARA LA AGRICULTURA: FERTILIZANTES, ABONOS NO DENOMINADOS, PESTICIDAS, HERBICIDAS, INSECTICIDAS, MAQUINARIAS Y EQUIPO DE LABRANZA Y OTROS DE NATURALEZA AGRICOLA.



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- h) MAQUINARIA Y EQUIPO INDUSTRIAL PARA LA GRANDE, MEDIANA Y PEQUENA EMPRESA.
 - i) MATERIALES Y EQUIPO DE CONSTRUCCION PARA VIVIENDA POPULAR.
 - j) REPUESTOS PARA VEHICULOS AUTOMOTORES Y PARA FINES INDUSTRIALES.
 - k) OTROS NO DENOMINADOS.
- 4 - **CONSTITUCION POLITICA.** LA UNIDAD POPULAR DEMOCRATICA - UPD - DESPUES DE ENCONTRAR PROFUNDOS VACIOS JURIDICOS EN EL ANTE PROYECTO DE CONSTITUCION POLITICA, QUE ESTA NO SEA APROBADA EN TANTO NO SE OIGA Y SE TOMEN EN CUENTA LAS OPINIONES DE LOS DIFERENTES SECTORES QUE FORMAN LA OPINION PUBLICA, TRABAJADORES, IGLESIA, ASOCIACIONES PROFESIONALES, PRINCIPALMENTE A LOS ABOGADOS, A LOS COOPERATIVISTA, ETC.
- 5 - **RESPECTO A LOS DERECHOS HUMANOS.** LA UNIDAD POPULAR DEMOCRATICA - UPD - CONSIDERA QUE EN EL SALVADOR NO SOLO SE VIVE UNA ANARQUIA JURIDICA, INCOHERENCIA EN LAS DECISIONES DEL GOBIERNO SINO UN ABSOLUTO DESPRECIO A LA VIDA HUMANA. EN ESE SENTIDO DEBEN CONSIDERARSE LOS FACTORES NEGATIVOS QUE ESTAN HACIENDO IMPOSIBLE EL RETORNO A UN VERDADERO ESTADO DE DERECHO PORQUE ADEMAS DE LOS TRADICIONALES TRES PODERES DEL ESTADO - EJECUTIVO, LEGISLATIVO Y JUDICIAL, EXISTE OTRO PODER, SIN DUDA EL REAL, QUE DE GARANTIZARSE UNA SALIDA MILITAR EL PAIS PUEDE SUFRIR UNA FERREA DICTADURA POR OTROS CINCUENTA ANOS MAS. POR ESA RAZON, Y OTRAS BASICAS Y FUNDAMENTALES, LA UNIDAD POPULAR DEMOCRATICA - UPD - DESEA UNA SALIDA POLITICA A LA CRISIS DE EL SALVADOR.
- 6 - **REFORMAS O CAMBIOS**
LA UNIDAD POPULAR DEMOCRATICA - UPD - ESTA CONSCIENTE QUE SIN REFORMAS EN EL SALVADOR NO HABRA JUSTICIA SOCIAL, COMO SIN JUSTICIA SOCIAL NO PODRA HABER PAZ SINO EL FERMENTO DE UNA VERDADERA GUERRA CIVIL QUE SIN DUDA ENSANGRENTARA AL PAIS. MUCHOS ANOS DE INJUSTICIA SOCIAL Y AUSENCIA DE ELECCIONES LIBRES, CON GOBIERNOS IMPUESTOS A TRAVES DE PARTIDOS OFICIALES HAN ENGENDRADO LA VIOLENCIA MAS DRAMATICA DE NUESTRA HISTORIA PATRIA.



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DEMOCRATICA

- 7 - QUE PARA ARRIBAR A UN VERDADERO ESTADO DE DERECHO Y SE CONTRIBUYA A LA PACIFICACION DEL PAIS, NO DEBE EXISTIR UN REGIMEN TRANSITORIO QUE PERMITA LA VIGENCIA DE DECRETOS COMO LOS 296, 307 y 346, EN VIRTUD DE LESIONAR Y VIOLAR LOS DERECHOS FUNDAMENTALES DEL CIUDADANO, PRINCIPALMENTE DE LOS TRABAJADORES.

UNIDAD POPULAR DEMOCRATICA - U.P.D.
COMITE POLITICO

Miguel Angel Vasquez C.T.S.

Ramón Aristides Mendoza UCS

Gabriel Pilella Araujo PUCA

Jorge Ruiz Camacho ACOPAI

Salvador Cefazo Carrillo
FESINCONTRANS

Alejandro Escobar Cartagena
SIPCES

Juan Antonio Argueta SUTE

Adrian Esquino Lisco A.N.I.S.

ANNEX 1
EL SALVADOR AGRARIAN REFORM SELECTED STATISTICS

	1981				1982			
	Jul 30	Aug 26	Sep 23	Oct 29	Nov 23	Dec 29	Jan 26	Feb 26
Applications for titles filed under Decree 207 (absolute numbers)	6,200	9,784	2,371	3,237	1,944	1,293	624	1,331
Applications for titles filed under Decree 207 (cumulative numbers)	19,015	23,301	25,672	28,929	30,373	32,146	32,787	34,121
Provisional titles granted under Decree 207 (absolute numbers)	32	3,442	3,359	9,371	3,332	9,698	1,219	672
Provisional titles granted under Decree 207 (cumulative numbers)	1,440	9,882	8441	12,812	16,144	20,842	22,061	22,732
Definitive titles granted under Decree 207 (absolute numbers)	0	0	0	0	0	0	0	0
Definitive titles granted under Decree 207 (cumulative numbers)	0	0	0	0	0	0	0	0
Property owners compensated under Decree 207 (absolute numbers)	0	0	0	0	0	0	0	0
Property owners compensated under Decree 207 (cumulative numbers)	0	0	0	0	0	0	0	0
Total number of Phase I properties	282	313	326	326	326	7	329	329
Number of Phase II cooperatives membership	11,300	32,116	33,237	32,207	34,638	7	34,728	34,728
Former owners Phase I farms compensated (absolute numbers)	14	5	4	5	7	0	13	3
Former owners Phase I farms compensated (cumulative numbers)	97	52	56	65	72	72	85	88
Property titles issued to cooperatives (absolute numbers)	0	1	0	0	1	0	1	1

EL SALVADOR AGRARIAN REFORM SELECTED STATISTICS

	1982 Jul	Aug	Sep	Oct	Nov	Dec	1983 Jan	Feb	Mar	Apr	May	June
Applications for titles filed under Decree 207 (absolute numbers)	155	646	736	1,268	6,925	6,961	8,782	9,266	1,333	822	587	178
Applications for titles filed under Decree 207 (cumulative numbers)	37,235	37,881	38,615	39,883	46,808	49,769	58,551	61,817	63,150	63,972	64,509	64,687
Provisional titles granted under Decree 207 (absolute numbers)	269	399	204	1,198	263	261	607	542	2,676	1,469	1,039	1,390
Provisional titles granted under Decree 207 (cumulative numbers)	32,369	32,769	32,972	34,170	34,433	34,694	35,281	35,823	38,497	39,966	41,025	42,415
Definitive titles granted under Decree 207 (absolute numbers)	148	0	0	137	0	0	738	260	113	201	650	239
Definitive titles granted under Decree 207 (cumulative numbers)	231	231	231	408	408	408	1,146	1,410	1,523	1,724	2,214	2,453
Property owners compensated under Decree 207 (absolute numbers)	6	1	27	18	23	28	35	20	12	83	20	36
Property owners compensated under Decree 207 (cumulative numbers)	12	13	40	58	81	105	140	160	172	215	235	271
Total number of Phase I properties	328	328	328	328	328	328	328	328	328	328	326	326
Number of Phase I cooperatives membership	29,755	29,755	29,755	29,755	29,755	29,755	29,755	29,755	29,755	32,317	32,317	32,317
Former owners Phase I farms compensated (absolute numbers)	0	1	1	0	0	6	5	3	1	2	8	1
Former owners Phase I farms compensated (cumulative numbers)	117	118	119	119	119	123	128	131	132	136	142	143
Property titles issued to cooperatives (absolute numbers)	12	0	0	0	4	0	0	0	5	0	0	3

SANTA ROSA, CALIF., August 4, 1983.

Dr. MARGARET DALY HAYES,
Committee on Foreign Relations, U.S. Senate,
Senate Dirksen Building, Washington, D.C.

DEAR DR. HAYES: In response to the telephone call of July 29, I am expressing my views on the Central American situation.

Speaking as a person who has lived in Central and South America for over ten years (1969-1980), and who was connected with the non-political side, I naturally see the situation in a different light. I worked with the private sector, I worked with the governments of the countries in which I lived. I worked with educators; I knew President Figueres, President O'Dubor, President Lakos, General Torijos and many others. So you see I speak from experience, not theory. (Enclosed are copies of documents, which will assist you to identify me).

First, we must remember in Latin America, the man on the streets, likes the North Americans. I have been told many times "we like you Americans, but we dislike your government". What is the problem? It is not a simple problem, it is becoming more complicated each day. Part of the reason is our (U.S.) insistence to "do it our way."

We (U.S.) are not considering that the people we call rebels or guerrillas are the poor people who have nothing and the outlook for them is despair. They have no place else to go but "up." True, there is in each country people that are stirring up the issue. But, they would not be able to do that, if a system was used, so, the working class had a chance. It's easy to sell a desperate person on an idea, which he feels he has a chance to gain.

There are plenty of educated nationals, of all countries, who with social and economical support, could turn most of the countries around, without war. It must be done by the people of the countries, with support from us. Not through the present political channels we use. We must move in the direction that the countries desire with the U.S. advising through our experiences. We must stop saying, "this is what you must do". It is a long uphill battle, one in which I have had considerable experience and knowhow.

If we wish to have continued relations with Central America, we must first accept the fact that the social and economical outlook of the people is different from ours. We must accept the fact that the form of government of each country is their choosing, and we can either work with it or not accept it. Example, in Nicaragua we are doing the same thing we did about 50 years ago, when we put Somoza into power. We have to sell the U.S.A.

The first step in this direction is to work with Panama, Colombia, and Venezuela, who are at this time meeting to find a solution for the problems. They need assistance in organization, economics, and common knowhow. We would be a perfect balance for their problems. I would hope I will hear response to these thoughts.

Sincerely,

J. LEONARD LELAND.

